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THEORIES OF FEDERALISM UNDER THE HOLY ROMAN EMPIRE

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A fact little appreciated by American political scientists is the relatively early emergence of federalism as a working concept of political theory in the Holy Roman Empire of the seventeenth century.[1] But although these federal theories run ahead of corresponding theories elsewhere, it must be pointed out that political and legal conditions peculiar to the medieval Empire retarded an even earlier appearance. For centuries, the constitution of the Empire had retained its feudalistic structure. Many conspicuous changes, however, had taken place in the course of its development and had filled that structure with an entirely different content. The main result of the Empire's constitutional evolution had been its gradual transformation from an originally fairly unitary state into a federalistic organization of *de facto* sovereign states.[2] It might be supposed, therefore, that the highly articulated territorial organization of the Empire would have easily served as fertile soil on which contemporary political theorists and jurists might

[1] It is true that Aristotle was well aware of interstate relations approaching a federalistic character, such as defensive and commercial unions; but he appreciated them only in so far as he wanted to prove that such unions did not create a new state, i.e., a perfect and self-sufficient *polis*. Cf. H. Rehm, *Geschichte der Staatsrechtswissenschaft* (Freiburg, 1896), 82.

[2] C. Bornhak, *Deutsche Verfassungsgeschichte* (Stuttgart, 1934), 1. The best short description of the constitution of the Holy Roman Empire from the point of view of federalism may be found in L. LeFur and P. Posener, *Bundesstaat und Staatenbund in geschichtlicher Entwicklung* (Breslau, 1902), 75–89. These authors conclude that the Empire was a "species of federal state." E. A. Freeman, *History of Federal Government in Greece and Italy* (2nd ed., London, 1893), 622–3, writes: "Long before that kingdom was formally dissolved, the relation between its several members had become much more truly a federal one than anything else."

have founded an elaborate theory of federalism. Unfortunately, such an assumption is entirely unwarranted. On the contrary, throughout the Middle Ages, neither political nor legal theory paid the slightest attention to the fact that the emergence of the modern state—out of the welter of feudal relationships—was territorial and particularistic in nature, and that it was accomplished at the cost of destroying the authority of the Empire.[3] Even when federalism was finally applied as a practical concept for the purpose of determining the political and legal relationships between the Imperial and the territorial authorities, only a very few scholars undertook a federalistic construction of the Empire's constitution.

The reasons for the late development of federal theories and their reluctant acceptance by comparatively few theorists are twofold. In the first place, the changes in the Empire's constitution had been so slow and gradual that contemporary writers had little cause to modify their basic assumptions. Secondly, these assumptions had been derived from the *Corpus juris*, in spite of the fact that Roman law was wholly alien to political conditions as they had historically grown up in the Empire. For the *Corpus juris* knew only one state, the universal Roman Empire which, as an organization *sui generis*, was sharply distinguished from all other organizations of a corporate character.[4] The glossators slavishly transferred this concept of a universal state to the constitution of the medieval Empire in spite of its fundamentally different constitutional framework. They ascribed *summa potestas* to the Emperor, treated the territorial princes as *praesides provinciarum*, placed the Diet (Reichstag) on a par with the old Roman *senatus*, described the free cities as *municipia*,[5] and determined accordingly the place of each of these agencies of government in a purely excogitated constitutional system. The medieval glossators did not recognize any state-republics and kingdoms. All these territorial communities

[3] The literature on the emergence of the German territorial states is vast. Cf. F. Hartung, *Deutsche Verfassungsgeschichte vom 15. Jahrhundert bis zur Gegenwart* (Leipzig, 1922), 37–61; here is also found a good critical list of the literature on the subject. Also: G. v. Below, *Vom Mittelalter zur Neuzeit* (Leipzig, 1924), 22–44; H. Spangenberg, *Vom Lehnstaat zum Staendestaat* (Muenchen, 1912), 116–126; J. C. Bluntschli, *Deutsche Staatslehre* (2nd ed., Noerdlingen, 1880,) 249–60.

[4] O. Gierke, *Das deutsche Genossenschaftsrecht* (Berlin, 1881), III, 141.

[5] J. St. Puetter, *Literatur des deutschen Staatsrechts* (Goettingen, 1776), I, par. 16; O. Stobbe, *Geschichte der deutschen Rechtsquellen* (Leipzig, 1860–64), II, 123. Cf. W. Koehler, "Die deutsche Kaiseridee am Anfang des 16. Jahrhunderts," *Historische Zeitschrift*, Vol. 149 (1933–4), 35–56.

were for them merely corporate associations to which no state-personality could be attributed.[6] Even after Bartolus had discovered sovereignty as the chief characteristic of the state and had divided all corporations into *universitates, quae superiorem recognoscunt,* and *universitates, quae superiorem non recognoscunt,*[7] and after the possibility was thus given to work out an appropriate theory of federalism, constitutional writers continued, up to the end of the sixteenth century and even later, to rely on the *Corpus juris* as the only legally tenable authority in their extremely strained interpretation of the constitution of the Empire. The same is true of the interpretation of the constitutional nature of the many leagues and confederations which came into existence at the end of the Middle Ages. These state associations were constructed as *universitates,* subordinate to the *corpora* and *collegia* of the *Corpus juris,* and were placed in the same category as the *collegia* of doctors, scholars, artists, etc. Only their corporate character was emphasized, while their possible quality as states was absolutely denied.[8] In practice, of course, these hallucinations of theorists were disregarded, and the contradiction between constitutional doctrine and the actual state of affairs became more outspoken as the political power of the territorial subdivisions of the Empire steadily increased with the advent of the modern world.

At the beginning of the seventeenth century, however, a new tendency set in as an independent theory of constitutional law of the Empire gradually developed.[9] The realization spread that Roman law could not immediately be applied to Imperial constitutional conditions. It was more and more acknowledged that the Imperial constitution did not spring from Roman law, but from ancient as well as recent Germanic charters, such as the Golden Bull or royal and Imperial capitulations.[10] Two writers in particu-

[6] Gierke, *Genossenschaftsrecht,* III, 198–202; cf. his *Johannes Althusius und die Entwicklung der naturrechtlichen Staatstheorien* (3rd. ed., Breslau, 1913), 229–232.

[7] These *universitates* were given more or less the attributes of the Roman state: "habet merum imperium in seipsa et tantam potestatem habet in populo quantam Imperator in universo"; Bartolus, 1.7 D. 48, nr. 14, as quoted by Gierke, *Genossenschaftsrecht,* III, 382, note 118; *Althusius,* 231, note 14.

[8] Gierke, *Genossenschaftsrecht,* III, 355–6, 420, 640.

[9] R. Stintzing, *Geschichte der deutschen Rechtswissenschaft* (Muenchen, 1880), I, 719–21.

[10] Dominicus Arumaeus (1579–1673) is said to have been the founder of the modern study of constitutional law in the Empire. A collection of monographs and dissertations, written by himself and others, was published in five volumes under the

lar contributed to paving the way for a more valid interpretation of the Empire's constitution. Hermann Conring discovered the real historical course of the Reception, and proved that Roman law had been introduced into Germany only since the fifteenth century.[11] Almost simultaneously with Conring, Hippolithus a Lapide presented a constitutional interpretation of the Empire entirely free from all principles of Roman law.[12] The works of both these men were epoch-making in that they definitely broke with the hitherto unquestioned dogma of the absolutely binding authority of the *Corpus juris*.

In the meantime, Bodin's definition of sovereignty had been fully accepted by Imperial political theorists. The progressing disintegration of the Empire and the consolidation of the territorial powers made an answer to the theoretically fundamental question of the location of sovereignty in terms of the new Bodinian doctrine inevitable.[13] For if sovereignty was acknowledged as the chief theoretical attribute of the territorial state, it obviously conflicted with the traditional Roman doctrine of the *majestas* of the Emperor.

Before the story of the change from the Roman law interpretation to a federalistic construction of the Empire's constitution

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title *Discursus academici de jure publico* (1616–23). The first comprehensive and systematic commentary on the constitution of the Empire proper was published by Johann Limnaeus (1592–1663) as *Jus publicum Imperii Romani Germanici* (Strassburg, 1629–32), 3 vols. Limnaeus was the first scholar who used exclusively Germanic constitutional documents in his system of constitutional law; cf. Stintzing, *op. cit.*, II, 211–20. On the constitutional importance of the capitulations, see F. Hartung, "Die Wahlkapitulationen der deutschen Kaiser und Koenige," *Historische Zeitschrift*, Vol. 107 (1911), 306–44.

[11] Hermann Conring (1606–81) was a professor at Helmstadt, first of medicine, afterwards of law. He wrote on many subjects. The work in question here is his *De origine juris Germanici* (1643). Stobbe, *op. cit.*, II, 418–19, considers Conring the real founder of historical jurisprudence in Germany.

[12] Hippolithus a Lapide (pseudonym for Philipp Bogislaus von Chemnitz, 1605–78) was a writer and publicist who in his *De ratione status in imperio nostro Romano-Germanico* (1640) accepted Bodin's concept of sovereignty, which he attributed to the territorial princes as a whole. This forced him to classify the Empire as an aristocracy, the Emperor being merely its executive organ. Cf. the thorough study of F. Weber, "Hippolithus a Lapide," *Historische Zeitschrift*, Vol. 29 (1873), 254–306.

[13] Bodin himself pointed out that at first he considered the territorial princes and cities to be sovereign and therefore *jure foederis ac societatis inter se obligati;* but later he declared the Empire to be an aristocratic unitary state in view of the *jura majestatis* exercised, in his opinion, by the Imperial Diet; cf. *De republica libri six* (2nd Latin ed., 1591), bk. ii, ch. 6. Concerning Bodin's acceptance and influence in the Empire, cf. Stintzing, *op. cit.*, II, 34–5.

can be related any further, it would be well to recall the outstanding constitutional events that took place at the end of the Thirty Years' War. It may be said that the Peace of Westphalia virtually concluded the constitutional development of the Holy Roman Empire.[14] The constitutional provisions of the peace treaties of 1648 did not remove, but rather accentuated, the fundamental weakness of the Empire's constitution, namely, the theoretical inconsistency between the legal status of the territorial states and their actual political power. For all practical purposes, the peace treaties destroyed the constitution of the Empire as such by sanctioning almost completely the territorial supremacy (*Landeshoheit*) of the territorial powers, without stipulating in any way their constitutional obligations toward the Emperor and the Empire. No doubt the territories were the undisputed victors in the controversy with the Emperor; the provisions of the peace treaties prevented the Emperor from acting in any important matter without the consent of the Imperial Diet.[15] Contemporary political and legal theory, however, which now, under the influence of historical studies and the widespread acceptance of the Bodinian concept of sovereignty, became primarily interested in determining the constitutional position of the Emperor and of the territorial authorities (*Reichsstaende*) in the government of the Empire,[16] reflected

[14] One hundred forty years later, J. St. Puetter wrote in his *Historische Entwicklung der heutigen Staatsverfassung des Teutschen Reiches* (Goettingen, 1786), III, 214–15: "Alles zusammengenommen, was ich von der Verfassung des Teutschen Reichs bisher historisch zu entwickeln gesucht habe, ist dieselbe in der Hauptsache noch jetzt ebenso, wie ich sie von den Zeiten des Westphaelischen Friedens geschildert habe."

[15] Hartung, *Verfassungsgeschichte*, 94–102; Bornhak, *Verfassungsgeschichte*, 46–54, 134–42. G. Meyer, *Lehrbuch des deutschen Staatsrechts* (5th. ed., Leipzig, 1899), 55, points out that the Peace of Westphalia, by granting treaty-making rights to the territorial states, implied their complete victory, and he maintains that since 1648 the dissolution of the Empire was a decided matter. While Meyer, *ibid.*, 59, describes the Empire after 1648 as a disintegrating feudal state, denying its federalistic character altogether, S. Brie, in his *Theorie der Staatenverbindungen* (Stuttgart, 1886), 126, calls it a "federal state." This latter view is rejected by J. B. Westerkamp, *Staatenbund und Bundesstaat* (Leipzig, 1892), 452, who classifies the Empire after 1648 as a "confederation." Cf. K. Korman, "Die Landeshoheit in ihrem Verhaeltnis zur Reichsgewalt im alten deutschen Reich seit dem westfaelischen Frieden," *Zeitschrift fuer Politik*, Vol. 7 (1914), 139–70; H. E. Feine, "Zur Verfassungsentwicklung des Heiligen Roemischen Reiches seit dem westfaelischen Frieden," *Zeitschrift der Savigny Stiftung fuer Rechtsgeschichte, Germanische Abteilung*, Vol. 52 (1932), 65–133. The authors of *The Federalist*, whose discussion of the Empire in No. 19 is excellent, regarded the Empire as a "confederation."

the constitutional conflict between the Emperor and the rebellious states as it had raged prior to 1648. Consequently, most of these writers interpreted the constitution of the Empire in accordance with their own political predilections. Those who had favored the Emperor declared the Empire to be a monarchy; those who had found themselves on the side of the princes now conclusively proved that the Empire was an aristocracy. Other writers compromised and placed the Empire in the category of mixed forms of government.[17] Such a superficial classification was made possible because the vast majority of writers did not abandon the old working concepts borrowed from Aristotle. Instead of giving them up as altogether useless in connection with the actual constitutional framework of the Empire, they arbitrarily attempted to connect them with their new, though politically colored, insight into what they believed to be the actual conditions.

The most important question, however, namely, in what relationship the territorial governments stood to the Imperial government, regardless of the latter's governmental form, was almost completely ignored. Most writers uncritically described the Empire as a unitary state. Otto von Gierke asserts, however, that already at the beginning of the seventeenth century Johannes Althusius paved the way for a federalistic construction of the Empire.[18] It is true that Althusius emphasized, in his corporate theory of political organization, the local autonomy of the provinces; but the term "federalistic" as used by Gierke is misleading in this connection because, as Professor Friedrich points out, "Althusius never wearies of emphasizing the unitary, collectivistic nature of any symbiotic group."[19] What Althusius intimated may be characterized in present terminology as local government or decentralization rather than federalism. Althusius, indeed, accepted Bodin's idea of the loose union of fully sovereign states, and divided the *consociationes* and *confoederationes* into *plenae et non*

[16] Stintzing, *op. cit.*, II, 38–54: "Der Streit um die Souveraenitaet und die staatsrechtlichen Schulen"; Gierke, *Genossenschaftsrecht*, IV, 209–23.

[17] The various theories of sovereignty as expounded in the Empire are well described in A. Dock, *Der Souveraenitaetsbegriff von Bodin bis zu Friedrich dem Grossen* (Strassburg, 1897).

[18] Gierke, *Genossenschaftsrecht*, IV, 227; *Althusius*, 25–6.

[19] C. J. Friedrich, in his introduction to *Politica Methodice Digesta of Johannes Althusius* (Cambridge, 1932), lxxxvii. The *Politica* was first published at Herborn in 1603. Professor Friedrich's introduction precedes a reprint of the third (1614) Latin edition.

plenae. Under the former he understood the amalgamation of several states with common fundamental laws into *unum reipublicae corpus et eandem rempublicam*.[20] In this system, sovereignty is apparently shared by all; while in the *confoederatio non plena* the allied states retain their full sovereignty and are merely obligated to mutual help, peace, and amity among themselves toward common enemies.[21] Such a system represents a "confederation" indeed, but it is highly doubtful that Althusius ever appreciated the distinctive qualities of the *confoederatio plena* in contrast to his *confoederatio non plena*.

Gierke reports, furthermore, that the doctrine of Althusius had some influence in so far as from it was directly evolved the phrase and concept "composite state" (*zusammengesetzter Staat*). He mentions Hoenonius, who, "following Althusius throughout, distinguished between *respublica simplex*, consisting of one state, and every state composed of several states or enlarged to a *regnum* or *imperium*, applying to the latter the federalist idea in the term *respublica composita*."[22] Besold accepted this concept of the *civitas composita* and applied it to the constitution of the Empire, locating sovereignty or *majestas* exclusively in the whole. He characterized the territories as member-states because they were entrusted with an independent exercise and representation of the Empire's sovereignty. Besold developed a special theory of the *status reipublicae subalternae* as a non-sovereign and hence not real "sub-state," which, nevertheless, is analogous in nature to the sovereign "superstate."[23] While Besold, on the basis of the *majestas realis* of the people, ascribed *majestas personalis* as a single and indivisible attribute to the Emperor and the Imperial Diet in common and construed the powers granted to the "sub-states" as special rights, implying that they merely had the privilege of exercising and representing the sovereignty of the whole,[24] another writer,

[20] *Ibid.*, ch. 27, par. 27–9. [21] *Ibid.*, par. 30.

[22] Gierke, *Althusius*, 245. The quotation is taken from the translation of this work by B. Freyd, published as *The Development of Political Theory* (New York, 1939), 267. P. H. Hoenonius (1556–1640) taught law at Herborn and published *Disputationum politicarum liber* (3rd. ed., Herborn, 1615).

[23] Gierke, *Genossenschaftsrecht*, IV, 228; *Althusius*, 245. Christoph Besold (1577–1638) was a jurist and voluminous writer on legal and ecclesiastical subjects. Lack of access to the works of these and other writers forced this writer to rely on Gierke's work and notes, and made it impossible to verify the latter's exposition of the theories of the authors under consideration.

[24] Gierke, *Development*, 288–9, note 49.

J. Lampadius, advanced a theory of divided sovereignty by characterizing the territorial supremacy (*Landeshoheit*) as an independent power with regard to certain governmental activities, and consequently as *majestas*.[25] Carpzov, finally, suggested that by virtue of the Empire's mixed constitution the territorial authorities participate in the exercise of sovereignty in a dual manner. *Conjunctim* they share a part of the Empire's *summa majestas* as members of the Imperial Diet. But *disjunctim* they possess a *species quaedam majestatis*, in that they are supreme within their territorial domains.[26]

The first writer who, by canalizing the various trends of federal theory, succeeded in presenting a comprehensive federal interpretation of the Empire's constitution after 1648 was a student of Hermann Conring by the name of Ludolph Hugo.[27] His judicious and penetrating dissertation was not primarily concerned with the constitution of the Empire proper, but rather with the constitutions of the territorial states. It endeavored, however, to explain the relationship between the Empire and the territories in terms of federalism. Hugo not only elaborated more precisely and systematically than Besold the latter's notion of the *civitas composita*, but he also presented much more succinctly than Lampadius the idea of a division of sovereign powers between "super-state" and "sub-states."

[25] Gierke, *Genossenschaftsrecht*, IV, 228, and note 89. J. Lampadius (1593–1649) was a jurist and minister in the duchy of Brunswick. Gierke refers to his *De republica Romano-Germanica* (1634).

[26] Gierke, *Genossenschaftsrecht*, IV, 229. B. C. Carpzov (1595–1666), a jurist. Gierke refers to his *Commentarius in Legem Regiam Germanorum, sive capitulationem Imperatorium* (1640). Carpzov held, however, that the territorial authorities are unconditional subjects of Emperor and Empire, not of the Emperor alone. The territorial supremacy is a mere *exercitium* of the Imperial sovereignty which *proprio jure* belongs to the whole Empire; cf. Gierke, *ibid.*, note 90.

[27] Ludolph Hugo (1630–1704), *Dissertatio de statu regionum Germaniae et regimine principum summae Imperii reipublicae aemulo* (Helmstadt, 1661). Since Hugo's work is not available in the United States, this writer freely used Brie's exposition of Hugo's ideas in S. Brie, *Der Bundesstaat* (Leipzig, 1874), 17–20. Brie seems to believe that Hugo's book was forgotten in the following century, and that he rediscovered it. This is not quite true. J. J. Moser, *Von Teutschland und dessen Staatsverfassung ueberhaupt* (Stuttgart, 1766), 528, indicates that the work was generally known. K. F. Eichhorn, the historian of German constitutional law, used it in his *Deutsche Staats- und Rechtsgeschichte* (5th ed., Goettingen, 1844), IV, 376–8, par. 551. It should be pointed out, however, that all these writers were looking only for what the title promised: the *regionum status*. They did not realize that the *status regionum* was determined by a new insight in the *status Imperii*.

Hugo opened his discussion with the observation that two different kinds of government exist in the Empire: the Empire as a whole forms one state; but every individual territory has its own authorities, and thus forms a special state within a higher state. As his task, Hugo proposed to study the origin and nature of the division of the Empire into two kinds of government as well as to explain the distribution of supreme power between the government of the Empire and the territorial governments.[28] There can be no doubt that Hugo was the first publicist who correctly posed the fundamental question as to the constitutional nature of the Empire.

In his search for the origin of the division of powers, Hugo proved a true disciple of his master, Conring, in adopting a strictly historical method.[29] After having sketched the origin and development of *Landeshoheit* within the territories, Hugo studied the history of the Germanic constitution since the foundation of the Empire by the Franks. He found the historical basis of the composite state in the difficulty of giving efficient government and uniform laws to a large realm. In order to overcome this handicap, it had been to the best advantage of the Empire to divide governmental functions among smaller territorial subdivisions and to grant far-reaching powers to the rulers of these territorial units.[30] The modern concept of "devolution" could not find a more lucid description. The nature of the relationship between the Empire and the territories lies, on the one hand, in the dual position which the latter occupy as states, and, on the other, as component parts of the greater whole. Hugo seemed well aware of the constitutional differences between federalism and decentralization: if the territorial authorities are merely officials of the "super-state" and obey its orders, the states would be nothing but provinces; the German territories, however, although subordinate to the Empire as a whole, are independent and must therefore be regarded as real states.[31]

[28] Brie, *Bundesstaat*, 17.

[29] J. Jastrow, "Pufendorfs Lehre von der Monstrositaet der Reichsverfassung," *Zeitschrift fuer Preussische Geschichte und Landeskunde*, Vol. 19 (1882), 46, maintains that Hugo acquired his inductive historical method from Aristotle: "Was er von Aristoteles gelernt hat, das ist die wahrhaft historische Methode, in der Politik niemals mit der Theorie, sondern stets mit den historisch gegebenen Verhaeltnissen zu beginnen und aus ihnen erst die Doktrin abzuleiten."

[30] Brie, *Bundesstaat*, 18.

[31] That Hugo clearly distinguished between territorial states and simple provinces is implied, for instance, in the unequivocal statement that the former "suo munere tamquam proprio funguntur," as quoted by Brie, *Bundesstaat*, 18, note 7.

Through this constitutional arrangement, the Empire differs not only from unitary states, but also from such permanent unions as the Achaean League, the United Provinces, or the Helvetic Confederation. By thus showing that the territories were subject to the whole in spite of their statehood, while the members of these other federalistic systems were not really subject to any higher authority at all,[32] Hugo was also in this connection the first to recognize the theoretical distinction between the later concepts of "federal state" and "confederation."

Hugo realized that the subordination under a higher power conflicted theoretically with the Aristotelian conception of the state, and he admitted that doubts concerning the quality of territorial statehood might be justified. But his practical approach helped him to minimize this dogmatic difficulty. He asserted that, even if the territories were not real states, their power was so closely akin to sovereignty that they may at least be regarded as being analogous to states.[33]

It is at this point in his argument that Hugo, in order to justify his doctrine of *duplex regimen* in the Empire, set forth the principle of the division of powers between the whole and its parts within the federation.[34] As an authoritative yardstick for such a division, he accepted the basic idea that certain national functions of government are better administered by the "super-state," while the individual states are better prepared to take care of the needs affecting their particular localities.[35] Here again Hugo's practical attitude toward the fundamental problem of federalism is to be admired in view of the purely juristic discussions of his contemporaries. He gave even greater force to this idea by emphasizing that every authority should be assigned those powers which it can exercise more efficiently than the other. For Hugo was far from believing that the distribution of powers in a federal system is absolute and unchangeable.[36] Foreign affairs, for instance, are usually within

[32] In the composite state there is a *societas foedere contracta civitatum domina*, while in a confederation there are *ipsae civitates foederum dominae*, as quoted by Jastrow, *op. cit.*, 377, note 3. [33] Brie, *Bundesstaat*, 19.

[34] It must be pointed out, however, that the principle of a division of powers was for Hugo of secondary importance. He simply utilized it to prove the kinship of the *Landeshoheit* with the *summa potestas* of the Empire; cf. *ibid.*, 18, note 10.

[35] "Diviso quodammodo inter summam et inferiores Respublicas civili imperio, illa quidam ea, quae ad communem omnium, hae autem, quae ad singularum Regionum salutem pertinent, gubernant." As quoted *ibid.*, 19, note 11.

[36] *Ibid.*, 19.

the competence of the whole. But concrete political conditions in the Holy Roman Empire—in this instance, its extreme weakness in international relations—makes it necessary for the territories to deal independently with foreign nations. While religious supremacy was formerly an attribute of the Empire and should properly lie within its competence on account of the universal character of religion, the *jus reformandi* is being granted to the territories as a result of the religious controversies. The general laws of the Empire do not prevent the territories from legislating concerning the same matters; but territorial laws should comply with the laws of the Empire. For this reason there is need for an Imperial court system which can correct judicial errors of the territorial courts and redress denials of justice.[37]

Equally pragmatic was Hugo's answer to the problem of avoiding permanent conflict between the whole and its parts, as well as between the parts themselves. Similarity of constitutions above all, but also the same historical origin and the same nationality, serve to prevent civil wars.[38] Reliance on political and historical rather than merely juridical circumstances determined Hugo's explanation of federal relationships.

Hugo explained that his interpretation was quite independent of the question as to who exercized the authority of the Empire as a whole. It may be located in one person or a federal diet; the problem of the constitutional nature of the composite state is not affected thereby. His own view with regard to the Holy Roman Empire after 1648 was that both Emperor and Imperial Diet, in common, represented the sovereignty of the whole. It is worth remembering in this connection that Hugo's work was the only one of its time which, without following or ostensibly opposing the prevailing theories, was based on scholarly observation. But, although it was so very different in its essentials from all that had been written about the Imperial constitution, it deviated very little therefrom in its external form. Hugo diligently cited the customary authors, and often he invoked the authority of Aristotle. Yet he was far from measuring the constitution of the Empire by Greek standards. He passed over in silence all reasoning concerning the unity of the state.[39] Important for him was the fact that there are two real authorities: the territorial powers, and above them the authority of the Empire.

[37] *Ibid.*, 20. [38] *Idem.* [39] Jastrow, *op. cit.*, 378.

Nothing particularly novel may be found in Hugo's ideas today; they seem crude. But they were curiously strange at the time of his writing. Two things in particular are worth recalling as well: first, that Hugo did not want to write a treatise on the constitution of the Empire, but on territorial constitutions; and secondly, that he did not write a heated political pamphlet as did most of his contemporaries, but a learned dissertation. Therefore he cannot be expected to assail the political evils of his time. Yet one remark which he made concerning the unnatural *status* of the Empire, namely, that many functions which by their very nature should properly fall within the competence of the Empire, but which on account of the latter's defectiveness are exercized and ought to be exercized by the territories, indicates sound political wisdom.[40]

Hugo's observations assured the concept of the state composed of states (*Staatenstaat*) a permanent place in German constitutional doctrine. If he neither clarified nor mastered the theoretical difficulties inherent in federalism as analyzed or conceived today, it is true, nevertheless, that after Hugo, "the concept of the composite state never disappeared again completely from political science."[41] Although Hugo's book was well received in learned circles and his theory accepted by some publicists,[42] it did not enter the arena of theoretical disputations. Most scholars were still more interested in classifying the Empire in Aristotelian categories. Even those who adopted the view that the Empire was a state composed of states concentrated their learned arguments much more on the question of the governmental form of the central government which Hugo had only incidentally touched. After long-winded disputations, they usually came to the conclusion that the Empire was a mixture of aristocracy and monarchy, and that the Imperial Diet, in common with the Emperor, represented the sovereignty of the Empire. But as far as federal theory is concerned, they did not go beyond Hugo's exposition.

Only the great philosopher Leibniz gave federal theory a formulation approaching modern views even closer than Hugo. Leibniz

[40] H. v. Treitschke, "Samuel Pufendorf," *Preussische Jahrbuecher*, Vol. 35 (1875), 634–5, discussing Hugo's work in connection with Pufendorf, is not only excessively polemical, but obviously unjust and mistaken when he accuses Hugo of "humble pussyfooting, lack of juristic precision, playing with unclear pictures."

[41] Gierke, *Althusius*, 246.

[42] Cf. Brie, *Bundesstaat*, 21, notes 19 and 21; Gierke, *Althusius*, 246, note 50, on the acceptance and elaboration of Hugo's theory by Vitriarius, Boecler, Brueggemann, Oldenburger, and others.

made his occasional remarks on federalism in connection with the constitutional problem as to whether the territories had the right to send their own representatives, in addition to those of the Emperor, to the peace negotiations at Nymwegen. He was probably commissioned by Ludolph Hugo, who was then vice-chancellor at Hannover, to render an opinion on this question. In treating it, Leibniz adopted the pseudonym "Caesarinus Furstenerius" in order to express his desire to do justice to the claims both of the Emperor and of the territories.[43] Whether he accomplished this intention is another question.

Leibniz succeeded in arriving at a fairly advanced conception of federalism because, unlike most of his contemporaries, he did not build his theoretical construction of the Empire's constitution on an absolutist definition of sovereignty.[44] He not only admitted the possibility of a theoretical limitation of sovereignty, but he also found, in the examples of the Empire, the Helvetic Confederation, and the United Provinces, that several territories may be united into one body politic without detriment to the territorial supremacy (*superioritas territorialis*) of any single one of them. For they maintain armed forces not only for internal policing purposes, but also for defense against foreign nations with which they even may conclude treaties.[45] It is interesting to compare at this point Hugo's and Leibniz' methods. While the former came, on the basis of amazingly accurate historical induction, to the modern concept of "devolution" as the determining factor in the explanation of federalism in the Empire, Leibniz approached the problem through a thoroughly pragmatic and empirical method.

Leibniz distinguished between a *confoederatio* and a *unio* as types of federal systems. The difference between the two is to him the same as between a *societas* and a *collegium* in private law. A *societas* is a body accidentally composed of individuals; its income is divided equally among all. But a *collegium* or *corpus* somehow con-

[43] Cf. the introduction of O. Klopp to his edition of *Die Werke von Leibniz* (Hannover, 1865), IV, 4–8. On G. W. Leibniz (1646–1716), see Dr. Bresslau, "Leibniz als Politiker," *Zeitschrift fuer Preussische Geschichte und Landeskunde*, Vol. 7 (1870), 317–48; F. Hecht, "Leibniz als Jurist," *Preussische Jahrbuecher*, Vol. 43 (1879), 1–25.

[44] J. K. Bluntschli, *Geschichte der Neueren Staatswissenschaft* (3rd. ed., Muenchen, 1881), 182, concluding his discussion of Leibniz' concept of sovereignty, writes: "Man sieht, sein Souveraenitaetsbegriff ist nur ein relativer, der Beschraenkung und der Grade faehig, kein einfacher und absoluter."

[45] Caesarinus Furstenerius, in Klopp, *op. cit.*, 57.

stitutes a new civil person with a corporate personality, and its income does not belong to the individuals who compose it, but to the *corpus* as a whole. Decisions of such an organization are made by majority vote, while the decisions of a *societas* require unanimity. A *confoederatio* is therefore an international *societas* merely entered into by verbal agreement; its armed forces are joined only in case of instantaneous need. A *unio*, on the other hand, must have a definite administrative authority with powers over the component parts.[46] The test for proving the true statehood of a union, Leibniz postulated, is its ability to find acceptance of the laws which it promulgates concerning the general welfare.[47] As far as the Holy Roman Empire is concerned, Leibniz believed that it is a *unio* the component members of which are the territories, in spite of the fact that they enjoy what Leibniz called *suprematus*.[48]

Both practical and theoretical reasons were responsible for the failure of federalism to win for itself a prominent place in the constitutional thinking of the Holy Roman Empire. In the first place, federalism did not, and could not, satisfy the two great political factions into which German political writers were split, because its exponents endeavored, on a non-political basis, to be fair to the rights of the Emperor as well as to those of the territories.[49] In the second place, an authority of the first rank opposed with weighty theoretical arguments the interpretation of the Empire as a "federal state." Disregarding the learned dissertations of the German publicists with their Aristotelian approach to the study of the

[46] *Idem.*

[47] Leibniz knew that his theory of federalism was quite unorthodox. He gave an excellent summary of the effect of orthodox theories of sovereignty on federalist constructions in the following sentence: *nam, admissa unitate Reipublicae, credidere sublatam in singulis membris libertatem sive suprematum; vel concessa singulorum membrorum libertate, non unam Rempublicam, sed unum foedus constitui sunt arbitrati; ibid.*, 58.

[48] *Suprematus*, in Leibniz' meaning, is not the same as "sovereignty," although it implies more than the traditional *superioritas territorialis* (*Landeshoheit*). Leibniz severely criticized the absolute sovereignty theory of Hobbes because it could not be applied to the German Empire: *Scio, quae hic a me disseruntur de natura Reipublicae, non posse conciliari cum sententiae accuratissimi viri Thomae Hobbii Angli . . . sic Hobbium audiemus non erunt apud nos* [i.e., in the Empire] *nisi Anarchiae merae; idem.*

[49] Cf. the statement of Hert, the editor of Hugo's and Pufendorf's works, that Hugo, in the conflict between the supporters of the Emperor and those of the Princes, *insigni mediae sententiae temperamento reipublicae genus describit, veteribus ignotum et quod apud iuniores nomen nondum invenit;* as quoted by Jastrow, *op. cit.*, 378.

Empire's constitution, Samuel Pufendorf, in his famous work on the German constitution,[50] declared that the Empire is neither a monarchy nor an aristocracy nor a mixed form of government, but an irregular and monstrous structure which fluctuates between a limited monarchy and a system of allied states, chiefly tending towards the latter.[51] This characterization of the Empire, which was in no way determined by political predilections, fell like a bombshell into the midst of the current juristic debates and obscured Hugo's and Leibniz' discussions.[52] Numerous attacks were at once directed against Pufendorf. But they only served to arouse his desire to present his ideas in systematic form in his following works.[53]

Pufendorf's method, unlike Hugo's, consisted in juristic and logical deductions from *a priori* conceived assumptions.[54] He unconditionally accepted the views of Bodin and Hobbes on the absolute unity and complete independence of the sovereign state.[55] From the

[50] The work was published under the pseudonym Severinus de Monzambano Veronensis, *De Statu Imperii Germanici ad Laelium fratrem, dominum Trezolani liber unus* (1678).

[51] *Nihil ergo aliud restat, quam ut dicamus Germaniam esse irregulare aliquod corpus et monstro simile;* as quoted by Jastrow, *op. cit.*, 335.

[52] Pufendorf's "Monzambano" has been thoroughly studied in all its aspects by J. Jastrow in the already cited article, "Pufendorf's Lehre von der Monstrositaet der Reichsverfassung," *supra*, 13, note 29; cf. Treitschke's article on Pufendorf, *supra*, 18, note 40.

[53] Especially in the dissertations "De Systematibus Civitatum" and "De Republica Irregulari," collected in *Dissertationes academicae selectiores* (London, 1675). This work was not available to the writer of this study. But Pufendorf's main ideas on the subject under consideration were repeated in his great work on natural and international law, *infra*, 24, note 55.

[54] Hugo Preuss, in his famous work on federalism, *Gemeinde, Staat, Reich als Gebietskoerperschaften* (Berlin, 1889), 16, explains the fundamental disagreement between Pufendorf and Hugo in terms of their different methods. He points out that this first controversy concerning the constitutional nature of the Empire, which centered in the problem of federalism, demonstrated the delicate alternative either to deny the theoretical possibility of a federal state, and thus to offend against historical and political reality, or to affirm this possibility and therewith to contradict prevailing political theory. Preuss believes that Hugo and Pufendorf occupy a permanent, prototypical position in this controversy because all later authors differed chiefly in accordance with their attitude towards the historical-political or the philosophical-critical method as already accepted by these two forerunners.

[55] S. Pufendorf, *De Jure Naturae et Gentium Libri Octo*, bk. vii, ch. 4: "On the parts of supreme sovereignty and their natural connexion"; and ch. 6: "On the characteristics of supreme sovereignty." This writer used the translation of the 1688 edition prepared by C. H. and W. A. Oldfather for the series "The Classics of International Law" (Oxford, 1934). On Pufendorf's political theory in general, see Bluntschli, *Geschichte*, 136–58; Stintzing, *Geschichte*, III, 19–23.

nature of the state thus conceived, he deduced its sovereignty; from the nature of sovereignty, its indivisibility; and from this indivisibility, the monstrosity of any state supposedly composed of other states. A state cannot contain within itself several other states.[56] Any relationship into which several states enter must preclude damage to their sovereignty. Pufendorf recognized, therefore, only two kinds of federalistic systems as theoretically valid: common action through a common ruler ("personal union"), or a permanent alliance for the common exercise of certain affairs in accordance with the principles of international law, which fully preserves the sovereignty of the individual states.[57] From the simple treaty, the *systemata foederatum*, as he called this permanent alliance, is distinguished by its durability and by the constant control of certain powers of sovereignty through common consent.[58] To effect such common agreement, a confederate assembly and a confederate council may be set up; these agencies hold delegated powers only, and withdrawal by any state at any time is theoretically always possible.[59] Consequently, Pufendorf rejected the possibility of majority decisions because they constitute, if not a transition to the unitary state, at least a deviation from the real nature of the state system.[60] Pufendorf thus introduced into political theory the concept of "confederation" (*Staatenbund*) as a permanent, though purely contractual, association of fully sovereign states for the purpose of exercising collectively certain rights of sovereignty.

In spite of his rejection of the concept of "composite state" and his insistence on "confederation" as the only normal type of federal organization, Pufendorf had finally to admit that intermediate forms might exist, and that the Holy Roman Empire in particular stood in the middle between unitary state and confederation.[61] His great theoretical error consisted in regarding every "monstrosity" as a fault of the constitution. If it is proved that a constitution of a state does not correspond to any constitutional theory, the reason may indeed lie in the fact that not all is well in that particular state; but it may also lie in the imperfection of theory. Unless the latter is disproved, the former cannot be inferred with logical necessity. Pufendorf, however, never undertook such proof.

Many publicists followed Pufendorf in rejecting the concept of

[56] Pufendorf, *op. cit.*, bk. vii, ch. 5, par. 12–3. [57] *Ibid.*, par. 16–7.
[58] *Ibid.*, par. 18. [59] *Ibid.*, par. 19, 21. [60] *Ibid.*, par. 20.
[61] Brie, *Bundesstaat*, 23–4.

the "federal state."[62] But those who did not want to brand the constitution of the Empire a "monstrosity," "had nothing but the choice between the two equally desperate devices of constructing the existing Empire as a mere confederation or of reverting to the old conception of it as a unitary state."[63] Some influential writers, however, who generally leaned on Pufendorf's theory, imperceptibly transferred again, in the words of Gierke, "the concept of the *systemata civitatum irregulare*, as realized in the German Empire, into the concept of *respublica composita*, to which the 'irregularity' was imputed as a characteristic merely for the sake of academic theory."[64] J. N. Hert,[65] the editor of both Hugo's and Pufendorf's writings, for instance, strongly upheld the views of the former. In the notes which he added to his great Frankfurt edition of Pufendorf's *De Jure Naturae*, he explained his disagreement with Pufendorf on this point by arguing for the validity of an intermediate category between the unitary state and the confederation in the sense elaborated by Ludolph Hugo.[66]

The century following Hugo and Pufendorf did not advance the study of constitutional theory in the decadent Empire, the reason being that interest centered primarily in questions of detail. Either one despaired of the possibility of arriving at any judgment concerning the whole, or one held, as J. J. Moser did, that the theorizing about the constitutional nature of the Empire was superfluous, useless, and even harmful.[67]

Thomasius and his school of political science, which flourished for many generations,[68] elevated Pufendorf's views on federalism to the prevailing doctrine of the eighteenth century. The most important jurists and theorists followed in Pufendorf's footsteps. Although their theories deviated in exceptions, the fundamental notions were the same. Most conspicuous, however, was the gradual transformation of the concept of *systema civitatum* into that of *respublica composita*, either *regularis* or *irregularis*. Thomasius

[62] Cf. the names mentioned by Gierke, *Althusius*, 248, note 54; G. J. Ebers, *Die Lehre vom Staatenbunde* (Breslau, 1910), 24–9.

[63] Gierke, *Althusius*, 248, notes 55–6. [64] *Ibid.*, note 57.

[65] Johann Nicolaus Hert (1652–1710) was a leading jurist and professor of law at the University of Giessen; cf. Stintzing, *Geschichte*, III, 62–3.

[66] Jastrow, *op. cit.*, 391; Gierke, *Althusius*, 248, note 58; Brie, *Bundesstaat*, 24, note 37. [67] Moser, *op. cit.*, 517, 549.

[68] Christian Thomasius (1655–1728) was a professor at Leipzig and Halle, a philosopher, a man of general culture, and a jurist who bitterly attacked Aristotle and scholasticism; cf. Stintzing, *Geschichte*, III, 71–111.

himself, in his lectures on Pufendorf, pointed out that state systems (i.e., personal unions and confederations) might be called *respublicae compositae* in contrast to *respublicae simplices*, while their governmental forms may be *regulares*, *irregulares*, or *mixtae*.[69] His student, Titius,[70] identified completely the concepts *civitas composita* and *systema civitatum*.[71] But in spite of the use of the term implying a "composite" or "federal" state, no real progress can be noticed as far as their meaning is concerned. Most writers emphasized the contractual basis of the federal relationship. The idea of a corporate union such as a "federal state" was made impossible by the dominant strict theory of sovereignty. This was not altered by the resumption of the term *civitas composita*, because it was not recognized as a state above states, but as a union of states based on loose coördination.

The weakening of the theory of sovereignty through the rise of the principle of the separation of powers after the middle of the eighteenth century cleared the road for a revival and advancement of the idea of "federal state." A tendency set in which attributed to the *systema* a position superior to that of its member-states. In his last great work, Heineccius[72] presented a theory of society according to which one *societas* is built over and above another. The *systema civitatum* stands above simple states which are called *civitates majores*. The *systema* is a *coalitio* of several states under preservation of their governmental form and independence into *unam majorem societatem* for the purpose of common counsel and the execution of common affairs, *ut velum unum regnum constituunt*.[73] Heineccius did not mention how far a relationship of domination and subordination was implied in his concept of the *systema*. J. G.

[69] *Institutiones jurisprudentiae divinae* (1687), bk. iii, ch. 6, par. 57–59; as cited by Gierke, *Althusius*, 248, note 57.

[70] Gottlieb Gerhard Titius (1661–1714) was a law lecturer and professor at Leipzig; cf. Stintzing, *Geschichte*, III, 138–41.

[71] *Specimen juris publici Romano-Germanici* (2nd ed., Leipzig, 1705), bk. vi, ch. 7, par. 34: *civitas composita sive systema civitatum est corpus civile ex pluribus civitatibus ita compositum, ut unaquaeque civitas summum ac plerumque etiam plenum imperium habeat, sed ita limitatum, ut quaedam eius partes coniunctim ab omnibus sint exercenda;* as quoted by Ebers, *op. cit.*, 28–9. The same ideas were expressed by J. H. Boehmer, *Introductio in jus publicum universale* (2nd ed., Halle and Magdeburg, 1726), and N. H. Gundling, *Jus naturae et gentium* (Halle, 1728).

[72] Johann Gottlieb Heineccius (1681–1741), law professor at Halle and one of the greatest eighteenth-century German jurists; cf. Stintzing, *Geschichte*, III, 179–198.

[73] *Elementa juris naturae et gentium* (Halle, 1737), bk. ii, par. 14, 119, 127.

Daries,[74] on the other hand, pointed out that the *systema civitatum* is actually superior to its member-states, and he even derived therefrom the obligation of the individual citizens to be more concerned with the well-being of the system than with that of their particular states. But the *systema civitatum* does not as yet form a new state as in the case of the *unio incorporativa*, where one state joins another, or as in the case of the *unio non incorporativa*, where several states form a new unitary state.[75]

More formal and complete than these theories was the system of federalism developed by Daniel Nettelbladt.[76] Denying sovereignty as an essential attribute of the state, Nettelbladt described the composite state as an aggregate of several states subject to the constitutional power of the composite state.[77] From the composite state, he distinguished clearly the "system of states," which is a mere federation of states into a society without state-character; both personal and real unions; and the "incorporation," in which the incorporated community ceases to be a state and exists simply as an autonomous member of a unitary state.[78] The composite state may be of centripetal or centrifugal origin.[79] The central state, as well as the member-states, may be monarchical or republican. A *duplex potestas civilis* is the main mark of distinction of the composite state; there is a highest (*summa*) and a subordinate (*subordinata*) authority; this latter power, although dependent on the former, is exercized independently of or in concurrence with the authority of the composite state.[80]

On the whole, it may be said that Nettelbladt and the other writers of the school of natural law did not go very much beyond Pufen-

[74] Joachim Georg Daries (1714–1791) was a professor of moral and political philosophy at Jena and Frankfurt an der Oder. He wrote many works on metaphysics, ethics, law, and politics; cf. Stintzing, *Geschichte*, III, 284–5.

[75] *Institutiones jurisprudentiae universalis* (2nd. ed., Frankfurt, 1754), par. 768–72.

[76] Daniel Nettelbladt (1719–1791) was one of the greatest German teachers of natural law in the later eighteenth century, a student of Wolff; cf. Stintzing, *Geschichte*, III, 288–99.

[77] *Systema elementare universae jurisprudentiae naturalis* (5th. ed., Halle, 1785), par. 1160: *respublicae diversae quae simul constituunt unam Republicam, cujus potestati civili subjectae sunt;* as quoted by Gierke, *Althusius*, 249, note 60. Nettelbladt's work is not available in this country. But good use may be made of the extensive and detailed notes of Gierke in his *Althusius*, *loc. cit.*, and *Genossenschaftsrecht*, IV, 540, notes 190–91; also in his *Development*, 291, note 60.

[78] *Systema elementare*, par. 1172–73.

[79] *Ibid.*, par. 1183. [80] *Ibid.*, par. 1175–76.

dorf's doctrine of federalism. The time was ripe, however, for a man who through his historical insight and legal training could maintain that the existence of a central and of local governments in Germany was historically conditioned, whatever abstract theory might postulate, and that the study of their relationship to one another must form the starting point for any sound interpretation of the constitution of the Empire.[81] By the end of the eighteenth century, Hugo's effort to construct the Holy Roman Empire as a federal state had fallen into such oblivion that Johann Stephan Puetter,[82] one of the greatest connoisseurs of the literature of German public law, could declare that his own interpretation was entirely new.[83] Puetter contended that the historically given constitutional formations of the Empire could not be comprehended either by the exponents of the old Aristotelian classification or by those who followed Pufendorf's untheoretical "monstrosity" theory. A higher classification of political bodies was regarded necessary by him.[84] After having already expounded in one of his older works that the Germanic territories and free cities are special states, but that also the whole of Germany forms a single common state,[85] Puetter explained and justified his ideas in the first volume of his *Beytraege*. He arrived at approximately the same results as Ludolph Hugo, although at some points he undoubtedly surpassed his predecessor in farsightedness and precision.

Puetter's advance over Hugo was mainly conditioned by his different approach, which resembled that of Leibniz. He concentrated on the historical process by which several independent states amalgamate into a larger whole. As several originally independent states may unite into a simple unitary state, or may conclude a loose

[81] J. St. Puetter, *Historische Entwicklung der heutigen Staatsverfassung des Deutschen Reichs* (Goettingen, 1786), II, 156–7.

[82] Puetter (1725–1807) was undoubtedly the greatest student and teacher of constitutional and public law in eighteenth-century Germany. Cf. Stintzing, *Geschichte*, III, 331–53; R. v. Mohl, *Die Geschichte und Literatur der Staatswissenschaften* (Erlangen, 1856), II, 425–38.

[83] J. St. Puetter, *Beytraege zum Teutschen Staats-und Fuerstenrecht* (Goettingen, 1777), Beytrag ii, "Von der Regierungsform des Teutschen Reichs und einigen davon abhaengenden Grundsaetzen des Teutschen Staatsrechts," par. 3.

[84] *Ibid.*, par. 1–4; *Historische Entwicklung*, II, 159–60.

[85] *Institutiones juris publici Germanici* (Goettingen, 1770), par. 32: *regnum divisum est in plures respublicas plane diversas quae tamen adhuc unitae sunt in modum reipublicae compositae sub communi supremo imperio monarchico restricto electicio;* as quoted by Brie, *Bundesstaat*, 28, note 17.

union for protection against foreign foes without detriment to their own independence, likewise it must be possible, Puetter thought, that several hitherto independent states may enter into a union in such a way that each state completely retains its own government as far as its internal affairs are concerned, while in external affairs they all acknowledge a higher common authority.[86] A composite state may originate in this way out of several individual states; or this procedure may be reversed, as in the case of the Holy Roman Empire, which sprang from the operation of centrifugal forces. Formerly a unitary state in every regard, the Empire gradually evolved into a federation of individual states, which are permanently united, however, under a common monarchical head.[87]

As a result of theoretical analysis and understanding of the historical formation of the federal state, as well as insight into the contemporary constitution of the Holy Roman Empire, Puetter attributed to the member-states "a government endowed, in the rule and on the whole, with all rights of sovereignty (*Hoheitsrechte*)."[88] On the other hand, he did not deny to the central authority the right to legislate concerning the extent of territorial powers, and he granted it the right to interfere in the internal affairs of the member-states.[89] Such subordination under a higher authority, Puetter believed, is easily compatible with the nature of a state, and he pointed to history as being full of examples of states dependent in various degrees.[90]

Although the Emperor was the bearer of the highest power in the Empire, the territories had the right to participate in the Imperial government.[91] Furthermore, since the princes were not mere officials of the Empire with delegated powers, but true rulers who represented their dominions in the Imperial Diet,[92] Puetter admitted that, in case of Imperial decisions which involved the individual states, the political weight would be on the side of the territories rather than that of the Emperor.[93] This fact caused Puet-

[86] Puetter, *Beytraege*, Beytrag ii, par. 9–14.

[87] *Ibid.*, par. 18–21, 35–40; *Historische Entwicklung*, II, 160–61.

[88] *Beytraege*, Beytrag ii, par. 25.

[89] *Ibid.*, Beytrag xvii, *Bestimmungen der Landeshoheit aus dem gemeinsamen Reichsbande*, and Beytrag xviii, *Bestimmungen der Landeshoheit aus der Subordination unter Kaiser und Reich.*

[90] *Ibid.*, Beytrag ii, par. 15–17.

[91] *Ibid.*, Beytrag iii, *Ob und wie weit den Teutschen Reichsstaenden ein Mitregierungsrecht an der kayserlichen Regierung beygelegt werden koenne.*

[92] *Ibid.*, par. 16–18; *Geschichtliche Entwicklung*, II, 162–65.

[93] *Beytraege*, Beytrag iii, par. 19–30.

ter to recognize an undeniable similarity of the Empire with the so-called *systemata foederatarum civitatum* (confederation).[94] He, nevertheless, regarded the Empire as a federal state because of its monarchical head. The value of Puetter's discussion consists, however, in the fact that he appreciated the generic kinship between the federal state and the confederation with reference to their historical origin as well as their real political structure.

Puetter's federal construction of the constitution of the moribund Holy Roman Empire gained an almost undisputed acceptance among German constitutional writers.[95] The most eminent members of his school, like Haeberlin and Leist, transferred his ideas in almost unchanged form into their textbooks on public law; and the quintessence of Puetter's views, the concept of the Empire as a composite state, was adopted by all well-known commentators on constitutional law.[96] The general theory of federalism, however, remained throughout the entire eighteenth century at the point which Pufendorf had attained in his discussion of state systems.[97]

[94] *Ibid.*, par. 27. [95] Gierke, *Althusius*, 250.

[96] Cf. Brie, *Bundesstaat*, 28–29, notes 18–22, for authors who accepted Puetter's general scheme of federalism. Also J. B. Koch, *Nikolaus Thadaeus von Goenners Staatslehre* (Leipzig, 1905), 173–81: "Die Lehre von den Staatenverbindungen."

[97] Brie, *Bundesstaat*, 29.

INDIVIDUAL CLAIMS TO SOCIAL BENEFITS, I

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I. INTRODUCTORY

It is a truism that the response of government to the manifold necessities of modern society has made the state today an organization providing services for the community. In particular, government is regarded as an agency to help alleviate economic disparity and maladjustment. This present development does not mean that the functions of regulation and protection, the traditional concomitants of the police state of the nineteenth century, have ceased to be important. On the contrary, they have increased in magnitude and importance as means of communication and as technical knowledge have increased. Thus the regulation and licensing of the practice of medicine, for example, assume greater importance as medical knowledge increases and as the health problems of the community grow. But the new emphasis of government is indeed on assistance and service[1] to those in need of aid, such as the unemployed, the aged, and the blind.

The new functions of government are in some ways only developments of the old, and the line between regulatory and service developments is not a division between absolutely watertight compartments. In general, a regulatory function is one in which government either directs by regulations of one sort or another the way in which private individuals shall conduct themselves, or else licenses them to carry on certain activities,[2] as found in statutes forbidding industrial homework in certain industries and requiring licenses in others. Service functions, on the other hand, offer definite benefits to individuals, such as unemployment compensation laws providing money payments over a certain period of time to individuals who become unemployed through no fault of their own.

In these service functions, alterations have taken place in the relative interests of the public and the individual because of the new subjects now under governmental control, and also because of

[1] Marshall E. Dimock, *Modern Politics and Administration*, Chap. 2, pp. 57–66, makes a fourfold division of the functions of government—protection, regulation, assistance, and service.

[2] For discussion of the line of demarcation, see colloquy between Sir John Anderson and Mr. W. A. Robson, in Committee on Ministers' Powers, *Minutes of Evidence*, Vol. II, Nos. 1264–1294, pp. 89–91.

the developing relationships between the different branches of the governmental structure. Such subjects as benefits for the aged or minimum wages for women in industry do not lend themselves to embodiment in all their details in the hard and fast terms of statutory enactment. The common law system left too much to private initiative to be able to secure any true equality in the enforcement of social claims.

We are in the midst of the process by which these new services and ways of handling them are being brought into relationship with the traditional system of Anglo-American law and administration. "Nothing less is our task," as Mr. Justice Frankfurter has said,[3] "than fashioning instruments and processes at once adequate for our social needs and the protection of individual freedom." In that task, old instruments of administrative law have been made to serve new uses. The concern of administrative law has been the question of how far the government can go in subordinating the personal and property rights of individuals to the public welfare and what are the processes by which an individual can restrain that subordination. In the service functions of government, the relative positions of public welfare and individual rights have shifted, and the problem becomes that of providing means for securing rights or benefits granted to individuals by statutory enactment, instead of preventing the government from depriving persons of their inherent rights.[4]

In this shifted emphasis, the time-worn administrative safeguards of notice and hearing and right to appeal have assumed new importance. Although mechanical safeguards cannot be relied upon to guarantee individual rights, nevertheless in the development of our liberty, insistence on procedural regularity has been an increasingly important factor.[5] It is of importance therefore to examine some of the ways in which procedural safeguards have grown

[3] *Law and Politics* (1939), "The Task of Administrative Law," p. 234.

[4] Cf., however: "Our traditional administrative law theory is enamoured of the distinction between governmental powers affecting private 'rights' and those conferring 'privileges' or 'bounties.' . . . In examining the internal structure of our administration in the context of procedural safeguards, a distinction between rights and privileges should not be too strongly pressed." L. Jaffe, "Invective and Investigation in Administrative Law," *Harvard Law Rev.*, Vol. 52, p. 1226 (June, 1939). Cf. Dodge v. Board of Education, 302 U. S. 74, 79(1937); McFarland v. Berber, 32 App. D.C. 513, 521 (1909); Penine v. Reis, 132 U.S. 464, 471 (1889); People v. Westchester Co. Nat'l Bank, 231 N.Y. 465, 468, 132 N.E. 241, 243 (1921), quoted Jaffe, *op. cit.*, p. 1224.

[5] Frankfurter, *op. cit.*, p. 235.

and have been adapted in the attempt to guarantee adequate justice to individuals claiming social benefits as of right. It is the purpose of this paper to trace some of the ways in which administrative procedure has come to give such guarantee. It will be seen that considerable formality has developed in the administrative arrangements by which individuals whose claim is denied may present their grievances and obtain redress, and that the administrative branch of government has taken on what were formerly judicial functions in its attempt to secure justice for such claimants. When a claim is originally presented, it must be thoroughly investigated before determination, and then appeal must be allowed to higher authority within the administration. To make assurance doubly sure, still further review is allowed to a still higher administrative body, and last of all there remains the traditional procedure of resort to the courts. Yet the new emphasis is on the administrative process, for it has become apparent that the common law and judicial procedure left too much to private initiative to secure any true equality in the enforcement of social claims.

The procedure is markedly affected by the transitional stage in American thinking concerning welfare and social benefits in which there is a lack of clarity as to what constitutes a right or benefit to which an individual has a claim. To state, as did a newspaper article in December, 1939, that the difference between old-age assistance provided by states and old-age insurance provided by the federal Social Security Act[6] "is that the first is given as a public charity, whereas the second is guaranteed as a right,"[7] is to becloud the issue; for state old age assistance laws, like the federal old age insurance provisions, authorize a statutory claim to benefit and guarantee it by the right to hearing and appeal for claimants deprived of their rights to such assistance. For example, old age pensions in New York State, even if deemed only "inadequate" by the recipient, may be appealed from the public welfare official granting the claim to the state Department of Social Welfare.[8] In old age benefits as in the other types of public assistance services, namely, aid to dependent children and aid to the blind, federal and state social security laws require provision of opportunity for hearing and appeal. The degree of latitude granted to local public welfare

[6] Title II.

[7] R. L. Duffus, "Old Age", *New York Times*, Magazine, Dec. 17, 1939, p. 5.

[8] *Consolidated Laws of New York*, Ch. 42, Art. XIV-A, Sec. 124-d, as required by Social Security Act, Title I, Sec. 2 (a) (4).

officials under such laws indicates the similarity of this type of assistance to general relief to which no legal rights have been granted.

Although the line of demarcation in social thinking is not entirely clear as to why statutory rights to benefit exist in some cases and not in others, nevertheless the fact remains that statutory rights are created in certain types of cases, such as grants to individuals for injuries due to industrial accidents, for involuntary unemployment, for aid to dependent children, the blind, and the aged. Claimants are given the right to benefit not only because of need, but in the broader sense because of the effect of denial of benefit on particular classes of the community. Therefore individual initiative is not the determining factor in securing payment as in the usual proceeding before a court of law. The administrative process itself takes up the burden of attempting to secure to the individual any rights granted him by statute.

The pioneer in evolution of procedure by which a person may claim rights throughout the administrative process is found in workmen's compensation or industrial accident compensation. Following closely in its footsteps is the procedure for unemployment compensation or insurance. Both are based on the principle that industrial accidents in the one case and involuntary loss of employment in the other are part of the costs of industry, to be met by payments made by employers to insurance funds or by payments made from taxes collected for the purpose; both are founded on the idea that a speedy and simple method should be provided by the state for hearing and determining claims rapidly and adjusting the amount of compensation, within limits, to the necessities of the case. In public assistance claims, where social thinking is in a transitional stage, differences have evolved in working out administrative safeguards. In claims for workmen's compensation or unemployment insurance, adversary proceedings are usually involved, while in claims for public assistance, individuals as part of the general public are the chief concern. In workmen's compensation, the claim to benefit is often disputed by an insurance carrier or employer who does not agree that an employee was injured during the course of his employment; in cases of claim to a pension for the aged, for instance, judgment as to eligibility is reached largely as a result of investigation of social and economic facts, and there is no formal opponent save for the administrative officer who may have refused to allow the payment of benefit. Only the general

public is supposedly interested, as in a few states where anyone who has knowledge that old age assistance is being improperly granted may file a written complaint with the Department of Social Welfare. If it appears on investigation that assistance was improperly granted, the state department immediately notifies the public welfare official concerned with the case that no further payments are to be made.[9]

The fact that in claims for benefits of this type there is no adversary other than an intangible one is bound to color the proceedings. Difficulty is inevitably found in any attempt to utilize methods suitable for adversary proceedings in situations in which there is no real opponent.

In accordance with the social purposes of these statutes, all have the common aim of furthering individual claims. Therefore, the presumption is in favor of the claimant, as in New York, where the workmen's compensation law in its own terms requires a liberal interpretation, with a presumption in favor of the injured worker, so that doubts are resolved in his favor,[10] once the facts are established as to the occurrence of an accident.[11] Even so, justice has not been entirely attained, for the usually impecunious and often uninformed employee may suffer some disadvantage when competing against the experience and the financial and frequently organizational superiority of the employer,[12] particularly when it is difficult to prove the *facts* in the case.

II. INITIAL CLAIMS TO BENEFITS

Traditional administrative-law safeguards such as notice, hearing, possible administrative appeal, and opportunity for judicial review will do little to remedy the difficulties and delays attendant

[9] *Consolidated Laws of New York*, Ch. 42, Sec. 124-f. According to R. Lowe, State Public Welfare Legislation, W.P.A. Division of Research, Research Monograph X (1939), p. 27, less than one quarter of state old age assistance statutes contained such a provision in 1939, while R. Lansdale, E. Long, and B. Hipple, *The Administration of Old Age Assistance* (1938), p. 298, stated that the number was three at the time of writing their volume.

[10] *Consolidated Laws of New York*, Ch. 67, Art. II, Sec. 21.

[11] The Department of Labor must be satisfied that an accident has happened before the presumptions begin to operate. Colins v. Brooklyn Union Gas Co., 171 App. Div. 381 (1916); Kelly v. Nichols, 199 App. Div. 870 (1921); Graffe v. Art Color Printing Co., 191 App. Div. 699 (1920); Woodruff v. Comstock, 186 App. Div. 924 (1918); Daly v. U.S. Trucking Co., 248 N.Y. Rep. 515 (1928). If substantial evidence to the contrary is produced, the burden of proof shifts to the claimant. Magna v. Hegeman Harrus Co., 252 N.Y. 82 (1932).

[12] R. A. Brown, *The Administration of Workmen's Compensation*, p. 58 (1933).

upon an initial denial of the right of benefit. Therefore the importance of the procedure as well as the basis of the first step in which an individual's claim to social benefits is either granted or denied cannot be overestimated. In fact, as Mr. Justice Frankfurter has said, "the incidence of law is most significant at the lowest point of contact,"[13] and it is apparent that one of the greatest opportunities for arbitrary action by administrative officers arises before the beginning of any "case" and prior to the making of any "decision." Time is of the essence in the type of social situation in which individuals claim that they fall within statutory clauses for benefits, particularly financial ones; for the future of a claimant may be seriously affected by denial of his claim, and indeed the entire purpose of a statute may be defeated by denial at the initial point of contact between the governmental representative and the individual claimant. Furthermore, the atmosphere generated by even temporarily unredressed claims may help defeat the social purpose of an act.

This first step consists generally of investigation, determination of the facts, and tentative decision. Much of the subsequent performance of the administrative task depends on this first step. As far back as 1929, the Moreland Commissioner investigating workmen's compensation in New York realized that many of the delays and unnecessary hearings and a considerable part of the great burden of work now carried on would have been obviated if adequate investigation had been undertaken.[14] The necessity of investigation is perhaps even greater today, as the field for social benefits has increased and as judgments are based more and more on investigation of social and economic facts in their various aspects.

After an investigation is made, an original decision is reached by an administrative official who either grants or denies the claim to benefit. As much of the subsequent discussion is concerned with the questions involved in disputed claims, it is important to remember at this stage of the argument that a large proportion of cases is automatically settled without dispute by a grant of the benefit claimed. It is the individual whose claim is denied, or who thinks that the benefit given him is too small, to whom attention is turned in the machinery provided for appeal. At no stage of the procedure is discretion more important than in the proceeding by which an

[13] *Op. cit.*, p. 35.

[14] *Message to the Governor Transmitting Report*, Legislative Document No. 49, 1929, p. 68.

original determination is made. Questions of fact on which the decision rests are often extremely complex and in many cases call for an increasing degree of specialized social knowledge as well as knowledge of human nature. In some rare cases, such as the standardization of certain injuries in workmen's compensation, it is possible to work out schedules for the determination of disabilities and the compensation to be allowed for them, but this is the exception rather than the rule in dealing with claims for social benefits, which usually involve numerous complicated and often shifting social and economic factors.

In New York, a claim for workmen's compensation may be presented to the employer or to the state industrial commissioner at any time after the expiration of seven days after the accident or onset of occupational disease,[15] while in unemployment compensation, a claim is filed at a local state employment office at which the claimant is registered as unemployed, within the time limit and as prescribed by the industrial commissioner, who also has authority to determine the rules and procedure for ascertaining the validity of the claim and the amount of benefit payable.[16] Despite the presumption in favor of the claimant usual in workmen's compensation cases, the actual burden of establishing each fact is equally on the applicant.[17] In order to obtain an award, the workmen's compensation administration must be convinced that the claimant was an employee, that he was injured as the result of an accident which arose out of, or in the course of, employment, and must also know the nature and extent of his injury and his weekly wage before the accident.[17a]

In New York, previous to July 1, 1939, a strange situation developed in the administration of unemployment compensation in that all claims for benefits were disallowed if there was any doubt as to their validity, so that the enforcement of the law was really left to claimants desirous of securing a hearing and presenting evidence for determination on the merits.[17b] Thus the first step in the pro-

[15] *Consolidated Laws of New York*, Ch. 67, Art. II, Sec. 20.

[16] *Ibid.*, Ch. 31, Art. 18. Sec. 510 (3).

[17] Cf. C. G. Haines, "Judicial Review of Findings and Awards in Industrial Accident Commissions," in *Essays on the Law and Practice of Governmental Administration* (1935), p. 135. Cf. F. A. Ross, "The Applicability of Common-Law Rules of Evidence in Proceedings before Workmen's Compensation Commission," *Harvard Law Review*, Vol. 36, p. 226 (Jan., 1923). [17a] Haines, *op. cit.*, p. 130.

[17b] Procedure, Mar. 10 and 29, 1939, Division of Placement and Unemployment Insurance, N. Y. State Dept. of Labor, Items. 12, 17, 18; Procedure, Feb. 9, 1938,

cedure became comparatively unimportant in disputed claims. The result was that action in withholding benefits was reversed in over seventy per cent of the appealed cases.[18]

In Wisconsin, where all claims are investigated and initially determined on their merits, in the first year of operation of the unemployment compensation law, some 23,000 disputed cases arose; but of these all but 370 were disposed of without a hearing.[19] This apparent success makes the procedure for initial determination in that state of considerable interest.[20] If a claim is filed and the employer's and employee's statements of fact do not agree, a district examiner of the state industrial commission's division of unemployment compensation discusses the situation and tries to make order out of the chaos of the often conflicting stories. He assembles the evidence, makes a brief report, and recommends the disposition of the case; but in the last analysis many cases must be decided on the basis of an examiner's judgment as to the veracity of the persons concerned and the worth of their evidence.[21] His report is subject to review locally by an "adjustments section" of the division, and must be made within ten days after investigation. It is of note that in a large portion of the cases determination is made without dispute or investigation.[22]

When a determination is made, it is essential for the individual affected to be notified of the decision and of the reasons for denial of a claim, as is done under the plan for old age benefit claims: "Notification of denial should include a careful explanation of the reasons therefor. The experience of the state pension department in hearing appeal warrants the view that many appeals can be avoided if the applicant is afforded a clear understanding of the reasons for denial."[23] In many situations, a personal interview has advantages in informing an applicant or beneficiary of all adminis-

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Secs. 810–816.4. Quoted in L. Cloe, "Disputed Claims Procedure under the New York Unemployment Insurance Law," *Columbia Law Review*, Vol. 39, p. 1159 (Nov., 1939). Similar difficulty had previously occurred in the administration of workmen's compensation. Cf. note 11 *supra*.

[18] *Ibid.*

[19] *Ibid.* p. 1161, note 46. In some states, the authority to determine claims in the first instance was exercised so as to deprive a claimant of an opportunity for a hearing, as in Louisiana, Vermont, and Virginia, where during the entire year 1938 there was no report of a dissatisfied claimant.

[20] Cf. W. Matschek and R. C. Atkinson, *Administration of Unemployment Compensation Benefits in Wisconsin* (1939).

[21] *Ibid.*, p. 47.

[22] *Ibid.*, p. 47.

[23] State Pension Department of Wisconsin, Bulletin No. WS-T.-A.D. 11, Apr., 1936.

trative decisions regarding his claims, particularly if the decision has gone against his wishes.[24]

Then he must be informed that all his remedies are by no means exhausted and that he may carry his claim further. For instance, applicants for old age assistance whose claims have been denied or not acted upon within a reasonable time, or whose grant of assistance has been modified or revoked, may appeal for a hearing on the claim. In New York, appeals may be taken in cases where applications have not been acted on by public welfare officials within thirty days after filing the claim, and where the applicants themselves deem the grants inadequate.[25] In Connecticut, any applicant or beneficiary aggrieved by the decision has a right to a hearing.[26]

III. NOTICE AND HEARING

It has been settled that due process under the Constitution necessitates notice and hearing to a claimant for benefit, but that the requirements of due process are satisfied if the parties have had reasonable notice and reasonable opportunity to be heard and to present either claim or defense, "due regard being had to the nature of the proceeding and the character of the rights which may be affected by it."[27]

Notice and hearing assume a somewhat different guise in the newer administrative procedures from that found in the older situations in which individuals claim such inherent rights as to do business, to secure licenses, or to rent flats in tenements. Where statutory rights to benefits in workmen's compensation, unemployment insurance, or public assistance are claimed, notice and hearing are not safeguards for the retention of pre-existing inherent rights, but are means of preventing discrimination or exploitation of individuals or family groups, of granting opportunities for correcting inept or inefficient administration, and, in particular, of providing the chance for allowing modification of transitional and experimental policies or of developing new ones in fields where administrative officers have been given wide discretion to grant or refuse benefits. On the negative side, such arrangements for notice and hearing may serve to interrupt direct lines of administrative respon-

[24] Lansdale, etc., *op. cit.*, Chap. 9, and p. 306.
[25] *Consolidated Laws of New York*, Ch. 42, Sec. 124-d.
[26] Connecticut, *Public Acts*, 1935, Ch. 110.
[27] Doheny v. Rogers, 281 U.S. 369 (1930).

sibility, foster unsympathetic relationships by precipitous reversions of decisions, and operate against the interests of an applicant by acceding to undesirable pressures or requiring of the administrative organization in its daily work of passing on claims action which is unacceptable to it.[28]

Notice of proceedings is important to both parties to a case wherever there is doubt as to the right of the claimant to receive his payment without dispute. Written notice of an injury or death for which compensation is payable under workmen's compensation is essential, so that the employer and the state may know of the case,[29] and so that the employer may have an opportunity to investigate[30] and test the good faith of the applicant.[31] Then it is also essential for both parties to know of a proposed hearing, so that notice must be sent to both,[32] stating the calendar upon which the case is to appear and the purpose of the hearing. Nevertheless, when the hearing does take place, not only in workmen's compensation but also in unemployment insurance, in the discretion of the presiding referee or board member, any issue may be considered and passed upon in any case, though not specifically indicated in the notice, if "the speedy administration of justice without prejudice to any party will thereby be substantially served."[33] It is of note that almost identical wording was adopted in the 1938 regulations of the division of placement and unemployment insurance of the New York State department of labor.[34]

As long as the benefit of the doubt is resolved in favor of a claimant, notice and hearing may sometimes be more important to those opposing his claim, or otherwise affected by it, than to the claimant himself. It is, however, not always easy to determine who such parties may be. Thus the Unemployment Compensation Act of Pennsylvania provides that the state department of labor shall promptly examine claims for unemployment compensation and determine whether or not a claim is valid and thereupon give notice

[28] Cf. *Some Factors to Be Considered in Developing Procedures for Fair Hearing*, mimeographed statement to the field staff of the division of policies and procedures, Bureau of Public Assistance, Social Security Board, Sept. 30, 1936.

[29] *Consolidated Laws of New York*, Ch. 67, Art. II, Sec. 18.

[30] Prokopiak v. Buffalo Gas Co., 176 App. Div. 128 (1916), 95 S.B. 320.

[31] Hynes v. Pullman Co., 223 N.Y. 342 (1918); 95 S.B. 315; Combes v. Geibel, 226 N.Y. 291 (1919); 95 S.B. 316; Smith v. Sirf Ap'ts, 253 N.Y. Rep. 542 (1930); 185 S.B. 493.

[32] Industrial Board Rules, Rule 7

[33] Industrial Board Rules, Rule 8.

[34] Procedure, Feb. 9, 1939, Rule 4(b).

of the decision and the reasons for it to "the claimant or other affected parties."[35] During the winter of 1939, a referee and the unemployment compensation board of review both agreed that the last employer of a man applying for unemployment compensation was not an affected party, but they were reversed on appeal to the courts.[36] As it seems obvious that at least the last employer is a party affected, the procedure is well accepted, as in Wisconsin, New York, and Pennsylvania, for both employers and employees to receive notice of the award of compensation and to be given a week or ten days to appeal.

IV. HEARINGS

Claimants are often so disgruntled with their treatment by administrative officers who refuse to allow their claims that complaint is frequently the order of the day. Protests at the first stage are usually answered in person or in writing; but if an unsatisfactory explanation is offered, claimants may protest again and more formally. It is at this stage that a "fair hearing" comes into the picture.

It is to the fairness of hearing accorded an individual in administrative difficulties that the attention of administrative law has long been turned. Indeed, hearings are frequently the crux of decision as to the determination of social benefits, and therefore have come to be hedged about with administrative and judicial safeguards. Despite their importance, hearings must be emphasized as the second stage in procedure, a fact not always realized by those whose attention is turned to the older forms of administrative law. Hearings have come to be particularly important in those services which are well established, such as workmen's compensation and its procedural follower, unemployment insurance. In the newer and more experimental public assistance procedures, where the emphasis is more directly on social than on mere legal factors, hearings are less formally developed. In fact, in New York, in public assistance cases, "all means of adjustment are exhausted before going into what is designated as a 'fair hearing,' a procedure so successful" that the bureau of public assistance of the New York State depart-

[35] Act of Dec. 5, 1936, P.L. (1937) 2897 (43s. PS secs. 821), Sec. 501.

[36] Susquehanna Collieries Co. v. Unemployment Compensation Board of Review, Superior Ct. of Pa., No. 5, Mar. term, 1940, No. 343, Sept. 27, 1939; affirmed by Supreme Court, Mar. 25, 1940.

ment of social welfare was asked to hold only five such hearings in 1938–39[37] and six in 1940.[38] In public assistance generally, "experience has shown that a large proportion of applications for fair hearing are withdrawn by the appellant on the basis of adjustment affected before the hearing."[39]

So important is the right to a hearing that the federal Social Security Board has outlined its requisites to be suggested to states coöperating in the federal Social Security program in regard to public assistance:

"a. The individual whose claim is denied and who requests a hearing must be given due notice of the time and place of hearing with a reasonable time in which to prepare his case.

b. The hearing must be held within a reasonable time after application for it has been made.

c. The individual must be given an opportunity to present his claim in oral or written form, to produce witnesses, and to review the basis of denial of his claim.

(1) Presentation of a claim to the reviewing body by a representative of the state or local agency is not an acceptable substitute for direct presentation by the individual.

(2) . . . If [an individual] wishes to have his claim presented by an attorney he should be permitted to do so. Such service, however, should not be necessary and specific instructions with regard to this possibility may give the applicant the impression that it is expected, and create a feeling of dissatisfaction on the part of the individual who is unable to engage an attorney. The state plan should provide that the use of lawyers is permissible but not necessary and not recommended for the purpose of furthering a claim. . . .

This is also true of admission of witnesses. An appellant should be permitted to produce witnesses who can support his claim. These witnesses may include members of pressure groups who in some instances can give important information with respect to the claim. The routine admission of group testimony may tend to create the impression that pressure and special influence are necessary to receive consideration from the state agency. Under poor leadership, group pressure may tend to obscure the facts on the basis of which decision should be made, prejudice the reviewing body, and weaken rather than support the claim of the appellant. Witnesses can be most effective if their testimony is heard individually.

d. Fair hearing shall be privately conducted and shall be open only to

[37] Letter to the author from the Executive Director, Dec. 12, 1939.

[38] *Ibid.*, Jan. 8, 1941. The Director writes: "I now think there is a distinct coördination between the necessity to hold a hearing and an unusual degree of tenacity and in some cases perhaps a psychotic attitude toward all actions by the welfare officials. This is shown in the fact that in three out of these six cases the clients, even after the decisions had been rendered by the highest authority available to them, have continued, in about the same degree, to argue the matter through correspondence with the same range of officials as formerly."

[39] *Some Factors to be Considered, op. cit.*, pp. 3–5.

the claimant, designated representatives of the state agency, and the individuals who have evidence bearing directly on the claim.

e. The decision of the state agency must be based solely on the evidence introduced at the hearing and such other documents as are referred to at the hearing and which the claimant has had an opportunity to inspect.

f. The individual must be fully informed of the basis of the denial of his claim . . .

g. The decision of the reviewing body shall be a final authority . . .

h. A record shall be kept of proceedings of all fair hearings. Such records shall be considered confidential and neither they nor decisions shall be published. . . .

i. The hearing shall take place at a time and under circumstances that shall not cause undue expense, inconvenience, or embarrassment to the claimants. The general conduct of the hearing procedure shall not be such as to place a claimant at a disadvantage. . . . "[40]

Not only does the federal Social Security Board suggest procedures for a fair hearing, but they are required by the specific terms of the Social Security Act for all states coöperating in the public assistance program.[41] No grants of money are to be made to states for development of their public assistance programs unless opportunity is given for a fair hearing before the state agency administering the federal grant, while in the case of federal grants to the states for the administration of unemployment compensation under the same act, the state law must include opportunity for a fair hearing "before an impartial tribunal"[42] for all whose claims for unemployment compensation are denied. Also, if the Social Security Board, after reasonable notice and hearing to the state agency charged with the administration of one of these particular social services under a federal grant, finds that in a substantial number of cases benefits have been denied qualified applicants, the Board may refuse to make any further payments until satisfied that the situation has been remedied.[43]

Despite these federal requirements and suggestions, the fair hearing procedure is perhaps one of the least standardized areas of administration in the field of public assistance. In workmen's compensation and unemployment insurance, the legal forms and procedures are clearer and more definite.

Yet the courts have been at some pains to decide what constitute

[40] *Ibid., op. cit.*, pp. 3–5.

[41] Title I, Secs. 2(a) (4); Title IV, Sec. 402(a) (4); Title X, Sec. 1002(a) (40).

[42] *Ibid.*, Title III, Sec. 303(a) (3).

[43] Title I, Sec. 4(a); Title IV, Sec. 404 (2); Title X, Sec 1004 (2); Title III, Sec. 303(b) (1).

the essentials of a hearing. It has long since been held that the due process clause guarantees fairness in hearings, that there must be a finding in accordance with the indisputable character of the evidence, and with the administrative determination supported by the facts.[44] Findings at hearings must be based on substantial evidence, which must be more than "a mere scintilla . . . such relevant evidence as a reasonable mind might accept as adequate to support a conclusion."[45] The evidence must be contained in a written record and must be known to the parties affected, with full opportunity to meet it.[46] Statutes frequently exempt officials from the limitations of the courts in the acceptance of hearsay evidence,[47] though the dangers of its use are so great that the courts have been known to reverse the award of an industrial accident board based purely on hearsay, where there was "substantial evidence opposed to it."[48] There must be a residuum of legal evidence to sustain an award. Usually claimants have some personal knowledge of the facts, in their own case, but often the opponent in a disputed claim has no knowledge of facts other than through hearsay, as for example, when there is a question concerning the reason for leaving employment in an unemployment compensation case.

Officials holding hearings affecting the determination of individual claims are bound by the fundamental rules of justice,[49] but otherwise are expected to follow the procedure best calculated to ascertain the substantial rights of the parties affected. Workmen's compensation was a pioneer in the attempt to give justice to in-

[44] Interstate Commerce Commission v. Louisville & Nashville Ry. Co., 227 U.S. 88, 91 (1913). Cf. H. Stephens, *Administrative Tribunals and the Rules of Evidence* (1933).

[45] Consolidated Edison Co v. N.L.R.B., 83 Law Ed. Ad. Op. No. 4, 31, 140 (1938).

[46] Notes 1 and 3 *supra;* U.S. v. Abilene & S. Ry. Co., 265 U.S. 274, 288 (1924); Lloyd Sabaudo v. Elting, 287 U.S. 329, 339 (1932); West Ohio Gas Co. v. Public Utilities Commission, 294 U.S. 63, 68, 69 (1935); Ohio Bell Telephone Co. v. Public Utilities Commission, 301 U.S. 292, 300–305 (1937); Morgan v. U.S., 304 U.S. 1, 14, 15 (1938); Fox West Coast Theatres v. Ind. Commission of Ariz., 7 Pac. (2d) 582, 584 (Ariz., 1932).

[47] Waddell George's Creek Coal Co. v. Chisholm, 161 A. 276 (Md. 1932).

[48] Carroll v. Knickerbocker Ice Co., 218 N.Y. 435, 113 N.E. 507 (1916); Lalier Construction & Engineering Co. v. Ind. Commission, 17 Pac. (2nd), 532, 534 (Colo.) (1932); Lindquist v. Hollor, 178 App. Div. 317, 164 N.Y. Supp. 906 (3d Dept., 1917); Anthus v. Rail Joint Co., 193 App. Div. 571, 185 N.Y. Supp. 314 (3d Dept.; 1920).

[49] Interstate Commerce Commission v. Louisville & Nashville Ry. Co. 227 U. S. 88, 91 (1913).

dividual claims by means of an informal hearing. Informality within definite bounds is the keynote of the situation, for after an investigation is made and "on application of either party"[50] in New York State, a hearing is held, the hearing, as described in the words of the law, being not bound by common-law or statutory rules of evidence or technical or formal rules of procedure, but conducted "in such manner as to ascertain the substantial rights of the parties."[51] This means that it must be conducted "in an orderly manner, all witnesses testifying under oath (or by affirmation), and a record of the proceedings shall be made and kept."[52] Similarly, any employee dissatisfied with an initial determination of his claim for unemployment benefits, or anyone else interested in a case, may request a hearing within twenty days after the mailing of a notice of an award of unemployment compensation.[53] The hearing thereupon held by a referee is conducted in much the same way as that in workmen's compensation cases.

In view of the quasi-judicial nature of the proceedings in such cases, it appears somewhat anomalous that a referee conducting a workmen's compensation hearing is directed to see to it that the rights of the parties before him are ascertained. Then, in the case of an unrepresented claimant, the strictly judicial character of the referee's office is lost, for the referee examines the claimant and his witnesses and cross-examines the employer or insurance company's witnesses on the claimants' behalf.[54] In such cases, the referee becomes a combination judicial officer and prosecuting attorney, a situation warranted only by the avowed bias of the law in favor of the claimant.

Considerable leeway is allowed in the type of evidence which may be given in compensation cases. For instance, witnesses are allowed to testify much more freely than in court proceedings. "It is at times amazing to those used to court trials to notice how great a volume of irrelevant testimony is permitted to be introduced into the record."[55] Such hearings, in both workmen's compensation and

[50] *Consolidated Laws of New York*, Ch. 67, Art. II, Sec. 20.

[51] Art. VII, Sec. 118. Cf. Secs. 119, "Subpoenas"; 120, "Fees of Witnesses"; 121, "Depositions"; 122, "Transcripts."

[52] Rule 9. For a full discussion of these hearings, see *Hearings under the New York State Workmen's Compensation Law*, Commission on the Administration of Justice in New York State, Legislative Document No. 50 (u), (1934).

[53] *Consolidated Laws of New York*, Ch. 78, Sec. 530.

[54] Industrial Board Rules, Rule 9.

[55] *Hearings, op. cit.*, p. 29.

unemployment insurance, are open to the public, but no report of any hearing containing the names of any parties is available to the public in New York, as disclosures of information obtained from either employers or employees are prohibited by the law of the state.[56]

In public assistance hearings, the keynote is always the possibility for informal adjustment outside of legal proceedings. Thus in New York State, "it is the continuing objective of the department (of social welfare) to secure any mutually satisfactory adjustment . . . therefore the referee will be alert to all possibilities for such adjustment."[57] When the hearing is held, no persons other than those designated by the department are allowed to attend without the approval of the referee, inasmuch as this type of hearing necessitates so much personal and confidential information as to the claimant's financial status. A full record must be taken, and stenographers are required to transcribe their notes in full.

As the time element is all-important in an individual claim to a social benefit, a hearing must be held promptly, no matter what type of case is involved. In workmen's compensation in New York and in old age assistance in Wisconsin, the law[58] provides that hearings must be scheduled within thirty days after a claim has been submitted. Although the time limit is regarded as directory rather than as mandatory, hearings are scheduled promptly. In New York, the first hearing is held, on the average, six weeks from the actual date of an accident.[59] In unemployment compensation in the same state, hearings are usually scheduled within three weeks of the date when a request is made.[60] But hearings are not inevitably held so promptly, and it has been noted that in some states claimants for old age assistance have frequently been required to wait months before their cases are given consideration.[61]

Decisions must also be made promptly after hearings are held. In workmen's compensation cases, decisions are usually reached

[56] *Consolidated Laws of New York*, Ch. 31, Sec. 524.

[57] *Statement of Policy and Method. Fair Hearing.* Bureau of Public Assistance, New York State Department of Social Welfare (typed). Cf. *Social Service Manual*, Chap. 6, "Complaints and Appeals"; Public Assistance Informational Bulletin No. S-19, June 30, 1938.

[58] *Consolidated Laws of New York*, Ch. 67, Art II, Sec. 20; *Laws of Wisconsin*, 1937, Title VII, Ch. 49, Sec. 49, 28.

[59] Letter from Mr. Henry Sayer, deputy executive director, State Insurance Fund, New York, to the president of the New York State Bar Association, Oct. 5, 1939. [60] Cloe, *op. cit.*, p. 1162. [61] Lansdale, *op. cit.*, p. 307.

immediately, and in unemployment insurance in New York, decisions must be reached[62] within five days after the conclusion of the hearing. The decision may settle only the particular matter of dispute or may be a complete disposition of the case. In workmen's and unemployment compensation, the decision must be in writing, together with the reasons for reaching the conclusion, and must be sent to the claimant, the industrial commissioner, and any other affected person who appeared at the hearing.[63] In public assistance services, much greater carelessness appears possible, for comparatively few states keep any track of the number of hearings requested or conducted, or the disposition of the cases.[64]

Despite the importance of the right to a fair hearing, it has not been universally accepted as a *sine qua non* of administrative procedure involving claims to benefits. Thus in the administration of old age assistance, where state officials have been convinced that adequate investigations have been made of applications and that decisions have been reached only after careful consideration of all pertinent facts, the officials are apt to believe that there is little that can be gained by a formal hearing. The experience of one state that has placed great emphasis on the right of claimants to a hearing by a state agency illustrates some of the difficulties, where machinery may be used merely to control local situations rather than to rebuild them constructively. "In this state many appeal cases have been instigated by politicians, not without the tacit approval of state officials, to whom rejected applicants have protested and to whom the existence of a state appeal procedure has presented a convenient 'out' when they have been harassed by constituents objecting to decisions of local welfare officials. The state appeal authority ruled against the appellant in over two-thirds of the seven hundred cases on which hearings were conducted in a ten-month period. Were the time and emphasis given to the improvement of local administration, applicants would be less likely to be led to believe that they were entitled to benefits that could not be legally granted."[65]

Despite such objections, even in public assistance cases, hearings have usually proved valuable to the state administration as a way of interpreting new services to claimants and local officials, of clari-

[62] *Consolidated Laws of New York*, Ch. 31, Art. 18, Sec. 530. The time limit is directory only. [63] *Ibid.* [64] Lansdale, etc., *op. cit.*, p. 313.
[65] Lansdale, etc., *op. cit.*, p. 305.

fying procedures and showing the best methods for administering aid, and last of all as a means of enforcing federal and state regulations. Owing to these factors, in Michigan, the state commission in charge of administration of aid to dependent children "has tried to encourage hearings as far as possible and has published a pamphlet explaining the program in full to the clients so that they will have an understanding of what their rights consist."[66]

Claimants' rights find further safeguards when administrative officers have the power to adjourn hearings. When, as in workmen's compensation, a claimant comes to trial unrepresented, bringing nothing with him but the notice of hearing and with no idea of the proof necessary to establish his claim, postponement is an advantage to him. Referees in such cases may use their best judgment as to when and how often to adjourn cases in order to secure all evidence necessary to be fair to all parties in interest.[67] On the other hand, adjournments necessarily may delay decisions and serve as excuses for lack of preparation of necessary material on both sides.[68] If both parties to a case had the requisite knowledge of the evidence necessary to establish or combat a claim, an understanding of the opponent's case, and all necessary documents and witnesses, the case could be more easily disposed of with speed and efficiency. But such preparation is often difficult to secure, particularly when a claimant is ignorant of his rights. Therefore, despite its disadvantages, the possibility of adjournment offers such safeguards that in unemployment compensation, in the same state at least, one postponement is given as a matter of right, and cases where a referee fails to grant a continuance at the request of a claimant have been remanded for further hearing.[69]

(*To be concluded in the October issue*)

[66] Marcia H. Dancey, "Mothers' Pensions and Aid to Dependent Children Program in Michigan," *Social Service Rev.*, Vol. 3, p. 651 (Dec., 1939).

[67] Industrial Board Rules, Rule 9. A case may be adjourned once at request of an employer or insurance carrier to allow appearance of medical witnesses, but not more than three times. Proceedings must be continued before the same referee who began the case until a final determination awarding or denying compensation is made. Art. II, Sec. 20.

[68] Cf. *Hearings*, *op. cit.*, pp. 33–37, for discussion of the general problem of adjournments in workmen's compensation in New York.

[69] *Consolidated Laws of New York*, Ch. 2, Art. 18; Cloe, *op. cit.*, p. 1172, note 85.

STATE CONSTITUTIONAL LAW IN 1940–1941[1]

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The increase in judicial restraint noted a year ago[2] has again been in evidence during the period under review. State courts, in following the lead of the United States Supreme Court, have construed police power liberally and have spoken out in defense of civil rights. Noteworthy, as well, has been the practice of these courts to construe strictly the power of the governor in this period of expanding administrative authority. The tendency of state courts to uphold experimental legislation, in line with the doctrine established by Nebbia v. New York[3] rather than founded on liberty of contract and separation of powers precepts, has not been uniform. Federal decisions which recently have been greatly weakened but not expressly overruled still serve as guide-posts for some appellate courts.

I. GOVERNMENTAL ORGANIZATION AND PROCEDURE

Separation of Powers. The Florida supreme court considered the separation of powers doctrine in two interesting cases. In the first, which involved the power of the supreme court to enact rules of civil procedure for the state courts, the majority held that constitutional provisions which vested the legislature with such power merely supplemented the inherent powers of the courts. Yet it was decided that before the supreme court could adopt rules for lower courts, special legislative authorization should be received.[4] In the second case, the court held that although a state board with discretionary power might itself make rules and issue a call for a hearing, a statute conferring on the board's chief supervisor the power to conduct such a hearing was an unconstitutional delegation of legislative power to one not commissioned an officer.[5]

The Illinois prevailing wage law for contractors engaged in public works also ran afoul of the separation of powers doctrine. The majority of a

[1] Howard Jay Graham, research fellow in political science, University of California, and Lawrence O. Erickson, Jr., compiler of "Comparative Provisions of State Constitutions" (under W.P.A. official project 65-1-08-62-unit A 11 [unpublished], sponsored by the School of Jurisprudence, University of California), gave invaluable aid in the preliminary analysis and selection of cases for this article.

[2] This REVIEW, Vol. 34, p. 700. [3] 291 U.S. 502.

[4] Petition of Florida State Bar Ass'n. for Promulgation of New Florida Rules of Civil Procedure, 199 So. 57 (Fla., Dec., 1940). See also People *ex rel.* Lasecki v. Traeger *et al.*, 29 N.E. (2d) 519 (Ill., Oct., 1940).

[5] Florida Dry Cleaning and Laundry Board v. Economy Cash & Carry Cleaners, Inc., *et al.*, 197 So. 550 (Fla., Aug., 1940); also Sanford Mfg. Co. v. Western Mutual Life Ins. Co., 294 N.W. 406; (Iowa, Oct., 1940); Dixie Greyhound Lines Inc. v. Mississippi Public Service Commission *et al.*, 200 So. 579 (Miss., Feb., 1941).

divided court decided that the power to render decisions in regard to prevailing wages was a judicial power. Consequently, vesting this power in administrative agencies could not be sustained.[6]

Voting and Elections. The fact that a man who received the highest vote for the office of court clerk died prior to election day does not render the election a nullity; rather, the living person who received the highest vote at the election wins.[7] A Louisiana court held that the constitutional and statutory provisions requiring a write-in candidate to register ten days before an election served to prevent a write-in candidate who had not so registered from receiving the office, when the regular candidate died just before the election and she was the only other candidate to receive any votes.[8]

The Electorate. Is an absentee ballot law that makes no provision for challenging prospective voters constitutional? The majority of the Kansas supreme court held that there need be no right to challenge. Moreover, to allow a challenge would violate the secrecy of the ballot.[9]

A petition to amend the New York City charter must be signed by at least 50,000 "qualified electors." The Court of Appeals of New York, by a four to three vote, held that the signer must be a registered voter and not merely a person possessing electoral qualifications so defined in the state constitution.[10]

[6] Reid v. Smith, Director of Public Works and Buildings, *et al.*, 30 N.E. (2d) 908 (Ill., Dec., 1940).

[7] State *ex rel* Wolff v. Geurkind *et al.*, 109 P. (2d) 1094 (Mont., Feb., 1941).

[8] State *ex rel.* Glorioso v. Board of Supervisors of Elections for Parish of Jefferson (La. App.), 198 So. 773 (La., Dec., 1940). A statute of Michigan that requires all candidates for public office who have changed their names after January 1, 1933, to submit both names for inclusion on the ballot was challenged as class legislation. The supreme court sustained the provision as one designed to prevent fraud. Jeffers v. Election Commission of Wayne County *et al.*, 293 N.W. 546 (Mich., Aug., 1940).

[9] Burke v. State Board of Canvassers *et al.*, 107 P. (2d) 773 (Kan., Dec., 1940). See last year's article, p. 701.

[10] Phillips *et al.* v. Hubbard, City Clerk *et al.*, 29 N.E. (2d) 969 (N.Y., Oct., 1940). The supreme court of Michigan, when called upon to define the duties of the secretary of state with regard to the filing of initiative petitions, held that these duties were ministerial and not quasi-judicial. Consequently, the secretary could not make an independent investigation into the sufficiency of signatures, although he might "exercise his honest judgment as to the validity of the names upon the face of the petition so as to reject names which are ridiculous and obviously facetious." People *ex rel.* Wright *et al.* v. Kelly, Secretary of State, 293 N.W. 865 (Mich., Sept., 1940). The Wisconsin constitution empowers the legislature to vest county boards with legislative powers of a local character. Thus the supreme court declared an act invalid that authorized the people of a county to petition the county board for the enactment of a civil service ordinance or, failing this, for the board to refer the ordinance to the people at the ensuing election. This was held invalid as constituting prohibited delegation of power to the electorate. Marshall v. Dane

Legislature: Salaries. The Washington legislature appropriated $40,000 to meet the actual and necessary expenses which members incurred "while absent from their usual places of residence in the service of the state, at a rate not exceeding five dollars per day, to be evidenced by vouchers with the necessary receipts showing such expenditures." The auditor declined to issue warrants as provided by this measure, insisting that the constitutional limitation on legislative salaries could not be circumvented by this kind of disguise, and cited State *ex rel.* Banker, State Representative v. Clausen, State Auditor,[11] to support his decision. In an original action before the supreme court, the validity of the appropriation was sustained. The Banker case, decided in 1927, had involved a resolution of the state house of representatives and had authorized the payment of five dollars to members of that house for each day of the session, irrespective of expenses actually incurred. The present law, on the other hand, was a formal legislative act and merely required reimbursement for actual expenses on the presentation of vouchers and receipts. Thus the Washington legislators received remuneration for their living expenses in addition to their salaries without receiving an unconstitutional change in pay.[12]

Legislature: Defective Title of an Act. In 1937 Washington, in its design to include Filipinos in the restriction against ownership of real estate, adopted an amendment to its Alien Land Law of 1921. The amending act broadened the term "alien" to include all non-citizens ineligible to citizenship by naturalization. The inclusion of non-citizen nationals—obviously not aliens—within the term "alien" led the Washington supreme court to hold that the title of the act was not broad enough to apply to Filipinos, that "the title of the amendatory law by adopting a term defined in the earlier statute without giving any indication that its meaning has been changed and broadened by statutory definition, actually . . . tends to be misleading and deceptive."[13]

County Board of Supervisors, 294 N.W. 496 (Wis., Nov., 1940). A Nebraska statute of 1939 that imposed obligation upon the sponsors of initiative petition in addition to constitutional obligations was sustained in State *ex rel.* Winter *et al.* v. Swanson, Secretary of State, 294 N.W. 200 (Neb., Oct., 1940). On the validity of initiative petition, see Sturdy v. Hall, Secretary of State, 143 S.W. (2d) 547 (Ark., Oct., 1940), and *In re* Initiative Petition #176, State question #253, 102 P. (2d) 609 (Okla., May, 1940).

[11] 253 P. 805; 142 Wash. 450.

[12] State *ex rel.* Todd *et al.* v. Yelle, State Auditor, 110 P. (2d) 162 (Wash., Feb., 1941).

[13] De Cano *et al.* v. State *et al.*, 110 P. (2d) 627 (Wash., Feb., 1941). Errors in the title of an act may not be validated by reference to extraneous material. State *ex rel.* Bates v. Baumhauer *et al.*, 195 So. 869 (Ala., May, 1940). The restriction limiting an act to one subject does not limit the act to one provision concerning that subject. Noble v. Noble, 103 P. (2d) 293 (Ore., June, 1940). Constitutional requirements with reference to legislative titles do not apply to city ordinances.

Governor. State courts have shown a tendency to construe strictly the constitutional limitation on the power of the governor. The power of the governor of Virginia to veto items in an appropriation bill was analyzed and interpreted narrowly in the case of the seven vetoes.[14] Each portion of the bill vetoed called for the expenditure of money. The court, however, determined that the vetoes were not of items, but rather were of provisions. The court declared the term "item" to "refer to something which may be taken out of a bill without affecting its other purposes or provisions.

The Oklahoma legislature vested a power in the governor which, if sustained, would have greatly increased his control of state government. The power was one to veto or reduce items in appropriation bills if it appeared subsequent to enactment that revenues would fail to meet original expectations. The Oklahoma supreme court held that this delegation of power amounted to an unconstitutional attempt on the part of the legislature to enlarge the governor's constitutional veto power. Moreover, the framers had not contemplated that the governor's veto power should be exercised long after adjournment, and the intention of the framers must prevail.[15]

The Republican candidate for governor in Missouri apparently had been elected, but by a very narrow margin, when the hostile legislature instructed the speaker not to open the election returns, hoping thereby to prevent a declaration of election. The supreme court held that the work of the speaker was purely ministerial and his duty under the constitution clear. Thus he was subject to mandamus in an action brought by the Republican candidate, and he could be compelled to open and publish the election returns.[16]

Judiciary. Many state constitutions contain provisions requiring the

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Chicago Cosmetic Co. *et al.* v. City of Chicago *et al.*, 29 N.E. (2d) 495 (Ill., Oct. 1940).

[14] Commonwealth v. Dodson, Clerk of House of Delegates, 11 S.E. (2d) 120 (Va., Oct., 1940).

[15] State *ex rel.* Crable *et al.* v. Carter, State Auditor, 103 P. (2d) 518 (Okla., June, 1940). Where the legislature increases the duties of the secretary of state without increasing his compensation, the governor may not add to the secretary's compensation by drawing on his executive employment fund where the constitution forbids changing of salary during the term of office. Jackson v. Hodges, Comptroller,, 10 S.E. (2d) 566 (Va., Sept., 1940).

According to the Maryland supreme court, the power of appointment is not an inherent power of the governor; rather, it is normally a power of the electorate. Buckholtz v. Hill *et al.*, 13 A. (2d) 348 (Md., May, 1940). See also People *ex rel.* v. Downen, 108 P. (2d) 224 (Colo., Dec., 1940); State *ex rel.* Williams v. Cage, Judge, 199 So. 209 (La., Dec., 1940).

[16] State *ex rel.* Donnell v. Osburn, Speaker of House of Representatives, 147 S.W. (2d) 1065 (Mo., Feb., 1941)

maintenance of a "thorough and efficient system of public schools"[17] or "free and efficient schools."[18] Efforts of educational authorities and associations to induce the courts to become the final interpreters of such provisions, thereby striking down or circumventing statutory or charter limitations on the school tax rates, met with failure in Illinois and Minnesota. Both courts, in decisions less than a week apart, declared that these matters were to be left to legislative or popular determination.[19]

Applications for unemployment benefits by members of the Machinists Union who were not on strike, but who refused to pass a picket line, were allowed by the California Employment Commission under an act that contained no provision for judicial review of the Commission's orders. In defense to a mandamus proceeding to set aside this order, the Commission contended that its decisions were final, not alone as to facts and law, but on matters of statutory interpretation as well. The state supreme court declared that if the Unemployment Insurance Act was intended to vest in the Commission final authority to pass upon questions of law, it would be unconstitutional. However, the fact that the statute made no direct authorization of judicial review was held not significant, for the court's power to settle questions of law is constitutional in its origin, and is a power that the legislature may not curtail.[20]

Suit Against the State. The extension of sovereign immunity to a government corporation performing essentially business functions is out of line with the current tendency toward public liability. When the New York Port Authority was sued for damage to property caused by blasting for the

[17] Minn. Const. Art. 8, sec. 3. [18] Ill. Const. Art. 8, sec. 1.

[19] People *ex rel.* Hartman, Co. Coll. v. Term B. Ass'n of St. Louis, 30 N.E. (2d) 743 (Ill., Dec., 1940); Bd. of Educ'n of Minn. v. Erickson, Co. Aud., 295 N.W. 302 (Minn., Dec., 1940). On legislative power to limit judicial functions, see Denver Local Union #13 of International Brotherhood of Teamsters, Chauffeurs, Stablemen, and Helpers of America *et al.* v. Perry Truck Lines, Inc. *et al.*, 101 P. (2d) 436 (Colo., Mar., 1940).

[20] Bodinson Mfg. Co. v. California Employment Commission *et al.*, 109 P. (2d) 935 (Cal., Feb., 1941). See also *In re* Determination of Relative Rights to Use of Waters of Deschutes River, 108 P. (2d) 276 (Ore., Dec., 1940); Sergi v. Industrial Commission of Ohio, 27 N.E. (2d) 149 (Ohio, Mar., 1940); Phipps v. Boise Street Car Co., 107 P. (2d) 148 (Ida., Oct., 1940); in O'Brien *et al.*, Prison Director, v. Olson, Governor, (Cal. App.) 109 P. (2d) 8 (Cal., Jan., 1941) the supreme court permitted a review of the action of the governor in removing the state board of prison directors by the writ of *certiorari*—a writ limited, in that state, to reviewing action of constitutional courts. On administrative hearing, see Dierssen v. Civil Service Commission of City and County of San Francisco (Cal. App.) 110 P. (2d) 513 (Cal., Feb., 1941), and *In re* Atchison, Topeka & Santa Fe Railway Company's Protest of Rates, 107 P. (2d) 123 (N.M., Oct., 1940). The Kentucky supreme court of appeals held that the state probation statute was not unconstitutional in face of the contention that it gave the judiciary an executive power of pardon. Lovelace v. Commonwealth, 147 S.W. (2d) 1029 (Ky., Feb., 1941).

Mid-town tunnel, tort liability was made to turn on whether or not the Authority was to be treated as a public utility. The New Jersey court held that the Authority is "a direct state agency, exercising an essential governmental function, and is, therefore, an alter ego of the state" and "clothed with sovereign immunity."[21]

When a state is not liable to an action in negligence, does insurance to protect the agents of the state from liability for negligence amount to a gift of public money? In answering this question in the negative, a California district court of appeal held that insuring public servants against tort claims is a legitimate expenditure of state funds, for by so doing a better class of persons could be attracted to state service.[22]

Inter-Governmental Relations. The adequacy of the judiciary as arbiter of the federal system is open to question with the recent growth of a real but extra-constitutional domination of a portion of a state's concurrent and exclusive power by federal administrators. This inadequacy is emphasized by the scarcity of litigation touching this matter. In but one significant case, that of Hutchins *et al.* v. Mayo, Commissioner of Agriculture, *et al.*, was the matter even obliquely brought before a high court. Petitioners in that case sought to restrain the enforcement of certain orders of the Florida Citrus Commission regarding the grading, stamping, or certifying of citrus fruit. Upon one ground the petitioners prevailed. The Commission, instead of adopting its own classification, "adopted rules of a federal bureau fixing standards whether then extant or later revised." It was this adoption of federal rules for future application that gave the court a sufficient basis for invalidation.[23]

The right of the residents of the National Home for Disabled Soldiers

[21] Miller *et al.* v. Port of New York Authority *et al.*, 15 A. (2d) 262 (N.J., Nov., 1939).

[22] People v. Standard Accident Insurance Co. *et al.* (Cal. App.), 108 P. (2d) 923 (Cal., Jan., 1941). A provision of the New York constitution permitted the issuance of local bonds for the period of usefulness of some object or purpose. The court of appeals defined the word "purpose" broadly enough to cover two-year bonds issued by a city to fund judgments against it. Cherry v. City of Long Beach *et al.*, 26 N.E. (2d) 945 (N.Y., April, 1940). A borough may not avoid constitutional liability for damage due to the construction of streets where the borough stood aside and permitted the county to perform the construction work. Hughes *et ux.* v. Borough of Elizabeth (Pa. Super.) 17 A (2d) 914 (Pa., Jan., 1941). Temporary inconvenience to property owners in the use of their property caused by municipal improvement in question involved the blocking of access to property for eight months. Thompson *et al.* v. City of Mobile *et al.*, 199 So. 862 (Ala., Jan., 1941).

Under a statute of Ohio that imposed on municipal corporations the duty of keeping public streets open, in repair, and free from nuisances, a city could not be held liable for injury caused by the location of a private United States mail box if it could be shown that the box was located by authority of the United States. Black v. City of Berea, 32 N.E. (2d) 1 (Ohio, Feb., 1941).

[23] 197 So. 495 (Fla., Aug., 1940).

at Leavenworth to vote in Kansas elections was examined by the state supreme court. The court reiterated the accepted doctrine that municipal law not inconsistent with federal law remains in force after cession of territory to the United States. In answer to the question whether the right to vote could be classified as a municipal right, the court held that it could not, for the right to vote was declared to be a political right and thus distinct from municipal rights.[24]

A Tennessee supreme court holding that the obligation of contracts doctrine would not bind a state to fulfill its agreement to assist local subdivisions in carrying previously incurred debts was founded on the lack of privity between the state and the local units.[25] From this decision it is but one step to the case of State v. Marin Municipal Water District, which held that a municipal water district that had secured a franchise from a county to place water-mains under a county road did not thereby obtain any contractual rights against the state, in spite of the franchise, when the state subsequently took the road into its highway system.[26] A contract entered into by two Utah municipalities—the one to supply culinary water for both cities and the other similarly to supply water for irrigation purposes—was held to be binding. The failure of one municipality to perform when performance became inconvenient rendered it liable to contempt proceedings.[27]

In spite of the provision of the Arizona constitution that supreme and superior court judges were not eligible for any office or public employment other than a judicial office during their terms a superior court judge became a candidate for nomination to the United States Senate. The Arizona supreme court held that this provision could not affect the qualifications of candidates for election to Congress at either the primary or the general election, because such qualifications were primarily federal matters.[28]

Defense. Although few in number, some noteworthy cases have arisen

[24] Herken v. Glynn, 101 P. (2d) 946 (Kan., May, 1940). Sales and business taxes apply to Indian reservations unless the federal government has reserved against them. Neah Bay Fish Co. v. Krummel *et al.*, 101 P. (2d) 600 (Wash., April, 1940). The extension of a city's limits by a state legislative act to include a portion of an Indian reservation was held lawful. Anderson v. Brule County *et al.*, 292 N.W. 429 (S.D., June, 1940). The determination by a state of its marine boundary is conclusive when accepted by Congress. Skiriotes v. State, 197 So. 736 (Fla., Sept., 1940). Affirmed by the United States Supreme Court, April 28, 1941, to be reported in 312 *U. S. Reports.*

[25] Cunningham *et al.* v. Broadbeth *et al.*, 147 S.W. 408 (Tenn., Feb., 1941).

[26] (Cal. App.) 101 P. (2d) 1112 (Cal., April, 1940).

[27] Genola Town *et al.* v. Santaquin City *et al.*, 110 P. (2d) 372 (Utah, Feb., 1941). The property right of a local district in a mental hospital it had constructed was not sufficient to prevent the state from assuming ownership and control of it. Chester County Institution District *et al.* v. Commonwealth *et al.*, 17 A. (2d) 212 (Pa., Jan., 1941).

[28] Stockton v. McFarland *et al.*, 106 P. (2d) 328 (Ariz., Oct., 1940).

out of the defense crisis. The Maine legislature was upheld in its power to authorize a $2,000,000 bond issue "for the purpose of suppressing insurrection, repelling invasion, or for purposes of war, especially for the building and improvement of armories . . . [and] airports for military purposes. . . . " The court, in an advisory opinion rendered at the governor's request, found that: "There being nothing to the contrary in the enacting part of the statute . . . and it being unambiguous,[29] the law raises a presumption that the legislature determined the existence of those facts necessary to sustain the validity of the statute. . . . "[30]

The clerk of a Kentucky court was also a captain in the Kentucky National Guard when the President of the United States ordered his unit into active United States service for one year. The Kentucky court of appeals was called upon to decide whether or not the clerk thus became a "person holding or exercising an office of trust or profit under the United States," and thereby ineligible, under the state constitution, to continue in his capacity as a state officer. The court emphasized that the fact that he was not sworn into the army did not change his status, and that, therefore, he remained a member of the state militia and did not become a federal officer.[31]

II. RIGHTS OF INDIVIDUALS

Freedom of Speech. The Wisconsin Employment Peace Act of 1937 declared it an unfair labor practice for employees to engage in picketing "or other overt concomitants of a strike" unless a majority of the em-

[29] Twice in the brief enacting clause appears "and/or."

[30] *In re* Opinion of the Justices, 15 A. (2d) 33 (Me., July, 1940); see *GeorgeWash. Law Rev.*, Vol. 9, pp. 367–70 (Jan., 1941). The city of Denver sought to condemn certain lands lying outside the city for donation to the United States government for use as an air corps school and bombing field, lands that had been selected by the Secretary of War. The owner of a portion of the property in question acted to prevent the taking and donation on the ground that "power to condemn private property . . . for the public use of the United States" was lacking because it was exclusively for a federal purpose. Nevertheless the court upheld the right of Denver, under the home rule amendment to the state constitution, to spend its money in any way that benefited the city. Fishel v. City and County of Denver, 108 P. (2d) 236 (Colo., Dec., 1940). See also Geboski v. Montana Armory Board *et al.*, 103 P. (2d) 679 (Mont., June, 1940).

[31] Kennedy *et al.* v. Cook, 146 S.W. (2d) 56 (Ky., Dec., 1940). A similar case arose in Virginia, except that the question of eligibility was based on a statute rather than on the constitution. The outcome was the same. City of Lynchburg v. Suttenfield, 13 S.E. (2d) 323 (La., Feb., 1941). The supreme judicial court of Massachusetts held that there was nothing in the common law, the Massachusetts constitution, nor the United States Constitution to prevent a superior court judge from serving on a draft board. *In re* Opinion of the Justices, 29 N.E. (2d) 738 (Mass., Oct., 1940). Constitutional provisions limiting indebtedness and the loan of public credit will not be interpreted to hamper national defense. Miles *et al.* v. Lee *et al.*, 143 S.W. (2d) 843 (Ky., Oct., 1940).

ployees had voted to strike by secret ballot. The state supreme court sustained the act, maintaining on the one hand that it was not a criminal statute and on the other that neither on its face nor through its administration by the Wisconsin Employment Relations Board did it impair legitimate freedom of speech. "By engaging in an unauthorized strike an employee loses his status as an employee. He then has the same rights and is subject to the same liabilities as a third person. When he thus withdraws from his employment he is free to speak, but his right to coerce his former employer is limited by the act. Except as his acts affect the employer, he is under no restraint."[32]

Freedom of Press. The established doctrine that the state cannot adopt any form of previous restraint on printed publications was affirmed by the Maryland court of appeals. However, in this case the Public Service Commission was sustained in its refusal to compel a telegraph company to continue a ticker service to a sport sheet after evidence of gambling had been uncovered. The court held that no act of the state had denied the newspaper the privilege of expressing its opinion on any subject, and that the ticker service was merely an adjunct to gambling operations, and constitutional freedom of the press thus not involved.[33]

An Atlantic City ordinance imposed a 25-cent license fee upon newspaper vendors, the license to be issued at the discretion of the director of public safety. The contention of the city that the ordinance could not be challenged successfully on the basis of recent United States Supreme Court decisions because the control here was of the "sale," not of a gratuitous distribution nor a distribution in hope of a contribution, while novel, was held by the New Jersey supreme court to be without substance.[34]

Religion. The sect of Jehovah's Witnesses again tested the breadth of constitutional religious toleration. The New Hampshire supreme court refused to interpret the guarantee of religious liberty so as to allow mem-

[32] Hotel & Restaurant Employees' International Alliance, Local #122, *et al.* v. Wisconsin Employment Relations Board *et al.*, 294 N.W. 632 (Wis., Nov., 1940). See also Shively v. Garage Employees Local Union #44 *et al.*, 108 P. (2d) 354 (Wash., Dec., 1940). Cf. Book Tower Garage Inc. v. Local #415, International Union, United Automobile Workers of America *et al.*, 295 N.W. 320 (Mich., Dec., 1940), and San Angelo v. Amalgamated Meat Cutters & Butchers Workmen of North America, Local 103 (Civil Appeals), 139 S. W. (2d) 843 (Tex., April, 1940).

[33] Howard Sports Daily, Inc., v. Weller, Chairman, Public Service Commission, *et al.*, 18 A. (2d) 210 (Md., Feb., 1941).

[34] Herder v. Shabodi *et al.*, 14 A. (2d) 475 (N.J., July, 1940). It was held by the Illinois supreme court that a license could not be required for the sale of books if the books were of a religious character. Village of South Holland v. Stein, 26 N.E. (2d) 868 (Ill., April, 1940). On the ground that the distribution of literature to motorists at busy intersections was a menace to motoring, federal decisions were distinguished in a Florida case sustaining an ordinance forbidding such distribution. Stephens *et al.* v. Stickel *et al.*, 200 So. 396 (Fla., Mar., 1941).

bers of that sect to conduct a Saturday night "information march," a sort of snake dance, for the purpose of religious propaganda without first obtaining a license as required by law.[35] New Jersey's supreme court did not depart from precedent in holding that the Witnesses might solicit contributions without first obtaining a license from township authorities.[36] Although the case turned on another issue, a lower Pennsylvania court took occasion to declare in clear language that no valid doctrine of religious freedom could allow men to invade forcibly people's homes in order to spread their religious doctrines.[37]

Imprisonment for Debt. The conservator of a mentally incompetent person invested funds unwisely and without court approval. He handed over to the court all of his property and was cited for contempt when this sum proved insufficient to satisfy his obligation. He contended that he could not be jailed because of his inability to pay a mere debt. The court held that as the court order did not create a debt, the conservator could be imprisoned for contempt.[38]

Right of the Accused. The conviction of a defendant for murder where the trial was conducted by hullabaloo rather than by orderly processes of the law, where the family of the deceased hired a special prosecutor from a neighboring state to insure a verdict of hanging, and where the defendant was not allowed to challenge the qualifications of the special prosecutor, was reversed by the state supreme court.[39]

Counsel. Decision of the United States Supreme Court in Powell v. Alabama[40] that federal due process embraces the right to effective counsel continues to serve as a foundation for the defense of indigent persons accused of crime. Thus it was held that the right of the accused to counsel would not be presumed to have been waived, but that the record must show that the accused, aware of his rights, refused the aid of a lawyer.[41] Also, that in a criminal case where a jury is to be recharged, the absence of the defendant's counsel is reversible error if the lawyer is easily available.[42] But, on the other hand, the court of appeals of Georgia held that

[35] State v. Cox, and four other cases, 16 A. (2d) 508 (N.H., June, 1940).

[36] Tucker v. Randall *et al.*, 15 A. (2d) 324 (N.J., July, 1940).

[37] Commonwealth v. Palms (Superior Court), 15 A. (2d) 481 (Pa., Oct., 1940).

[38] Cox v. Rice, 31 N.E. (2d) 786 (Ill., Feb., 1941). Lavender v. City of Tuscaloosa, 198 So. 459 (Ala., Oct., 1940) held that imprisonment for failure to pay the city scavenger money due him for performance of a service mandatorily required by a city ordinance did not violate the constitutional prohibition against imprisonment for debt. A liability, sanctioned by a jail sentence, imposed by law on the father of an illegitimate child does not violate the South Dakota constitutional prohibition of imprisonment for debt. Acker v. Adamson, Sheriff, *et al.*, 293 N.W. 83 (S.D., June, 1940).

[39] State v. Henry, 198 So. 910 (La., Nov., 1940).

[40] 287 U. S. 45 (1932).

[41] *Ex parte* Meadows (Okla. Crim.), 106 P. (2d) 139 (Okla., Oct., 1940). Cf. *Ex parte* Connor, 108 P. (2d) 10 (Cal., Dec., 1940).

[42] Carter v. State, 9 S.E. (2d) 747 (Ga., June, 1940).

sentence may be passed upon a defendant who has pleaded guilty in the absence of his lawyer, who was trying a case in another room in the same building.[43]

Counsel appointed by an Indiana court to defend a pauper was awarded compensation for this service from the county, although there was no statute authorizing such a payment. The supreme court held that it was an inherent power of the court to award fees in such a case and that the county may not avoid the payment.[44]

Jury. By statute, New Jersey undertook to transform certain offenses against election laws into disorderly conduct subject to summary punishment—offenses which formerly had been crimes punishable only after indictment and conviction by a jury. The supreme court held this statute unconstitutional. Election frauds are indictable at common law, and elections are themselves of the essence of popular government. Thus the old system of prosecutions must be maintained.[45]

A Negro was convicted of murder in Alabama after indictment by a grand jury composed of white persons. Following his conviction, he sought to gain a new trial by impeaching the grand jury. This effort failed. The supreme court held that as the accused remained silent at the first trial, he waived his right to impeach the grand jury and thereby receive a second trial.[46]

Search and Seizure. The high courts of two states held that evidence obtained by a search and seizure could not be admitted in a criminal prosecution unless the warrant under which the search was conducted had been issued strictly in accordance with the law.[47] An opposite position was taken by a Pennsylvania court. In a decision rendered early this year,[48] the court held that the admissability of evidence was not affected by the mode of obtaining it.

[43] Welch v. State (Ga. App.), 11 S.E. (2d) 42 (Ga., Sept., 1940). The reopening of a criminal case in absence of the accused merely for the technical appointment of counsel who had actually served during the trial violated no substantial right of the accused. People v. DeLisle, 29 N.E. (2d) 600 (Ill., Oct., 1940). The California court held that mere youth and inexperience of assigned counsel were not in themselves sufficient grounds for reversing a murder conviction for want of due process. People v. Ives *et al.*, 110 P. (2d) 408 (Cal., Feb., 1941).

[44] Knox County Council v. State *ex rel.* McCormick, 29 N.E. (2d) 405 (Ind., Oct., 1940).

[45] Wilentz, Attorney General v. Galvin *et al.*, 15 A. (2d) 903 (N.J., Oct., 1940).

[46] Vernon v. State, 200 So. 560 (Ala., Feb., 1941).

[47] Eslick v. State (Crim. App.), 105 P. (2d) 554 (Okla., Sept., 1940); Mazer v. State, 18 A. (2d) 217 (Md., Feb., 1941). The fact that a defendant takes the stand in his own defense does not operate to make admissible evidence which had been seized under a faulty search warrant where proper objection had been previously made. Riley v. State, 18 A. (2d) 583 (Md., Mar., 1941). Cf. Mazer v. State, 18 A. (2d) 217 (Md., Feb., 1941).

[48] Commonwealth v. Dugan *et al.* (Pa. Super.) 18 A. (2d) 84 (Pa., Jan., 1941).

The supreme court of Utah decided that a statute authorizing the issuance of a search warrant to aid the enforcement of a private civil right is unconstitutional. In so holding, the court declared that an essentially criminal procedure may not be used for the attainment of private ends.[49]

Self-Incrimination. A Michigan statute modifying the immunity against self-incrimination was sustained by a divided court.[50] The question, Can one be compelled to testify against oneself where all possible risk of prosecution as a result of the testimony has been ended, was answered in the affirmative. There must be protection, not only against state prosecution, "but also against any reasonably probable federal prosecution." One of the contentions vainly pressed by the defendant in this case was that while the statute may have granted him immunity from prosecution, he was, in being unable to assert his privilege and go to court and clear himself of criminal charges, deprived of a fundamental right.

The driver of an automobile involved in an accident was compelled by officers to subject himself to certain tests[51] to determine whether or not he was intoxicated. In a prosecution growing out of the accident, the court refused to allow the introduction of the results of these tests in evidence, on the ground that to do so would amount to compelling the accused to incriminate himself.[52]

Double Jeopardy. After commencing an action in assault and battery against an individual, the state of Idaho may abandon that action and try the man for murder without placing him in double jeopardy, if the person assaulted dies after the former prosecution has begun.[53] However, one who has been acquitted as an accessory to arson may not later be charged with burning to defraud, a charge growing out of the same incident, unless the evidence necessary to convict in the second prosecution was not admissible in the first.[54]

III. GOVERNMENT AND BUSINESS

Fair Trade and Unfair Business Practices. Coördinated strategy and the constant pressure exerted by interest groups have continued to make the field of trade regulation one of the most dynamic in state constitutional

[49] Allen v. Trueman, Judge of the 2nd Judicial District, 110 P. (2d) 355 (Utah, Feb., 1941). [50] *In re* Watson, 291 N.W. 652 (Mich., Apr., 1940).

[51] "He was . . . required to walk and make sudden turns. Again, he was required to hold out his hand and make an effort to place a finger on his nose. . . . Again, he was required to furnish a specimen of urine, in order that it might be analyzed for the purpose of determining whether alcohol was present."

[52] Apodoca v. State (Tex. Crim.), 146 S.W. (2d) 381 (Tex., Jan., 1941). There is no violation of the privilege against self-incrimination in compelling one who has been illegally arrested to appear in a police line-up for identification purposes. Meriwether v. State (Ga. App.), 11 S.E. (2d) 816 (Ga., Nov., 1940).

[53] State v. Randolph, 102 P. (2d) 913 (Ida., May, 1940).

[54] King v. State, 199 So. 38 (Fla., Dec., 1940).

law. Outstanding during the past year have been a decision of the Maryland court of appeals extending applicability of the state fair trade law to copyrighted books;[55] a break in the unanimity of decisions invalidating those laws which have prohibited sales below cost, regardless of purpose, effect, or intent;[56] and a tendency to sustain fair trade legislation of other types if sufficiently definite and flexible in its determinations of costs, either by survey or otherwise.[57]

Price-fixing has lost much of its sinister reputation in recent years. Thus a unanimous Vermont court upheld the city of Burlington's flat twenty-five cent intra-city taxi rate.[58] The Pennsylvania Pawnbroker's Act, which fixed maximum charges for storage, insurance, and investigation and granted discretionary licensing powers to the secretary of banking, was ruled to be neither arbitrary nor confiscatory, and was declared to involve no unlawful delegation of authority to the secretary of banking.[59] A New York supreme court sanctioned[60] substantial reënactment of the 1922 theater ticket brokerage law invalidated in Tyson v. Banton.[61]

[55] Schill v. Remington Putnam Book Co., 17 A. (2d) 175 (Md., Jan., 1941).

[56] State v. Walgreen Drug Co., P. H. Tr. & Ind. Serv. ¶ 97, 170. Cf. Commonwealth v. Zasloff, 13 A. (2d) 67 (Pa., May, 1940). See 1940 survey, p. 715, note 65. Prohibitions on sales below cost regardless of intent were among the reinforcement measures enacted in response to pressure from trade associations after the United States Supreme Court had sustained the original fair trade laws in Old Dearborn Distributing Co. v. Seagram Distillers Corp., 299 U. S. 183 (1936).

[57] McElhane v. Geror, 292 N.W. 414 (Minn., May, 1940); State v. Sears, 103 P. (2d) 337 (Wash., June, 1940); Carroll v. Schwartz *et al.* 14 A. (2d) 754 (Conn., July, 1940); Miles Laboratories Inc. v. Owl Drug Co., 295 N.W. 292 (S.D., Dec., 1940); Weco Products Co. v. Sam's Cut Rate, Inc., *et al.*, 295 N.W. 611 (Mich., Jan., 1941); Moore v. Northern Kentucky Independent Food Dealers Ass'n *et al.*, 149 S.W. (2d) 755 (Ky., Mar., 1941). Qualifications and counter-trends must be noted here, however, for margins of safety are often narrow. The Washington law was upheld by a five to four court, while in the Zasloff Case (note 56 above) the Pennsylvania judges, though earlier in their opinion implying that an intent clause would have saved the act, went on to declare that "a penal statute must lay down a reasonably ascertainable standard of guilt," and served notice that all legislative definitions of costs would be closely scrutinized and invalidated if found to be indefinite. Following this line, and notwithstanding an intent clause, the Maryland court proceeded to overturn the Unfair Sales Act of 1939. Daniel Loughran Co., Inc., *et al.* v. Lord Baltimore Candy & Tobacco Co., Inc., *et al.*, 12 A. (2d) 201 (Md., April, 1940). The court in the Walgreen case (note 56 above), though sustaining the act as a whole, voided one clause relating to costs as "indefinite and uncertain."

[58] State v. Gamelin, 13 A. (2d) 204 (Vt., May, 1940).

[59] Equitable Loan Society, Inc., *et al.* v. Bell, Secretary of Banking *et al.*, 14 A. (2d) 316 (Pa., June, 1940). The court here classed pawnbrokerage with lotteries, liquor, disorderly houses, drug and oleomargerine traffic, and declared that it not only might be regulated, but also might be wholly suppressed. Three judges dissented on this point.

[60] Kelly-Sullivan, Inc., *et al.* v. Moss, Commissioner of Licenses of City of New York, *et al.*, 22 N.Y.S. (2d) 491 (N.Y., Sept., 1940).

[61] 273 U.S. 418 (1927).

Judicial reserve, however, by no means amounts to complete acquiesence. South Carolina's supreme court, relying heavily on the Fairmont Creamery decision,[62] invalidated a thirteen-year-old statute forbidding locality price discriminations.[63] Efforts of Massachusetts retailers to bolster the Motor Fuel Sales Act by prohibiting gifts of premiums, rebates, and prizes, and by requiring that posted prices be maintained for not less than twenty-four hours, were defeated by the supreme judicial court's refusal to depart from its earlier holding that prohibition of trading stamps constituted an arbitrary interference with private business.[64] Thus the confusion that is resulting from barbers' efforts to stabilize price charges is typical of the general confusion of price stabilization. Although the supreme court of New Mexico sustained a statute empowering the Board of Barber Examiners to approve minimum price scales adopted by 75 per cent of the barbers in any judicial district,[65] and the Oklahoma criminal court of appeals affirmed a similar earlier holding,[66] the weight of authority remains against the constitutionality of such legislation.[67] During the past year, courts of Indiana and Wisconsin unanimously held statutes of this type to involve an unconstitutional delegation of legislative power.[68]

Milk Control. Milk control legislation suffered significant and unexpected reverses during the past year when acts of Connecticut and Michigan were both overturned. The 1935 law of Connecticut provided for an administrator and authorized him to set minimum prices and regulate the milk industry generally. In invalidating this act, the court relied heavily on a New Hampshire decision[69] and argued that the price-fixing sections of the Connecticut law were much more indefinite than in states where such statutes had been sustained.[70] Michigan's statute was successfully defended against claims of unlawful delegation of legislative power, defective title, and inadequate procedural safeguards. But the supreme court held the act to be void inasmuch as it required two members of the board to be milk producers. Answering the majority's contention that this pro-

[62] 274 U.S. 1 (1927).

[63] State v. Standard Oil Co. of New Jersey, 10 S.E. (2d) 778 (S.C., Sept., 1940).

[64] Sperry & Hutchinson Co. *et al.* v. McBride, Director of Division of Necessaries of Life of the Commonwealth, 30 N.E. (2d) 269 (Mass., Nov., 1940).

[65] Arnold v. Board of Barber Examiners *et al.*, 109 P. (2d) 779 (N.M., Jan., 1941).

[66] Tennyson v. State, 106 P. (2d) 1114 (Okla., Oct., 1940).

[67] Fellman, David, "A Case Study in Administrative Law: The Regulation of Barbers," *Wash. Univ. Law Quar.*, Vol. 26, pp. 213–42 (Feb., 1941).

[68] Hollingsworth v. State Board of Barber Examiners, 28 N.E. (2d) 64 (Ind., June, 1940); State v. Neveau, 294 N.W. 796 (Wis., Nov., 1940). Exemption of counties of less than 30,000 population from the provisions of the act was also held a fatal defect in the latter case.

[69] Ferretti v. Jackson, 188 A. 474 (1936).

[70] State v. Stoddard 13 A. (2d) 586 (Conn., May, 1940).

vision gave the producer members a pecuniary interest in price-fixing, and hence made a fair and impartial attitude impossible as applied to distributors and consumers,[71] the dissenting justice pointed out that "administrative bodies generally are composed of members of businesses or professions . . . regulated." Such membership, he continued, is almost inevitable under a "policy of entrusting regulation to those best equipped through knowledge and experience for the task."[72]

Housing. The general status of housing legislation was indicated by the supreme court of Arizona in declaring that at least 20 states had sustained housing laws and that "every question raised here has been considered in [other] jurisdictions and held invulnerable to . . . constitutional objections." Thereupon the court overruled arguments that the 1939 municipal housing law was invalid as special legislation and inoperative as to home rule cities.[73]

Although the Virginia housing law was sustained as a valid exercise of the police power and the housing authority's bonds were held properly tax exempt, the court held an agreement between Bristol and the Bristol Housing Authority to be void because certain matters essential to public safety were deemed to have been withdrawn from city control.[74]

Perhaps the most interesting and closely contested issue growing out of decisions of the Florida supreme court related to whether or not the property of housing authorities was used exclusively for municipal purposes.[75] The court first answered this question in the negative, two judges dissenting,[76] then subsequently modified,[77] and finally reversed its decision,

[71] Distributors and consumers were each allowed but one board member.

[72] Johnson v. Michigan Milk Marketing Board, 295 N.W. 346 (Mich., Dec., 1940).

[73] Humphrey v. City of Phoenix *et al.*, 102 P. (2d) 82 (Ariz., May, 1940). See the similar holding in Texas Housing Authority of City of Dallas *et al.* v. Higginbotham *et al.*, 143 S.W. (2d) 79 (Tex., June, 1940).

[74] Mumpower v. Housing Authority of the City of Bristol *et al.*, 11 S.E. (2d) 732 (Va., Nov., 1940). The New Jersey supreme court saw little merit in the argument that whereas its earlier decisions had held *slum clearance* to be a public use, the Newark housing project was really for families of *low income.* Ryan *et al.* v. Housing Authority of City of Newark *et al.*, 15 A. (2d) 647 (N.J., Oct., 1940). Opponents of low-cost housing for Negroes received a double setback when a divided Florida court rejected arguments which in effect denied municipalities use of the public corporation and made housing exclusively a county function. Lott *et al.* v. City of Orlando *et al.*, 196 So. 313 (Fla., June, 1940), and Higbee *et al.* v. Housing Authority of Jacksonville *et al.*, 197 So. 479 (Fla., Aug., 1940).

[75] Florida's constitution (XVI, 16), like that of a number of other states, provides that "the property of all corporations shall be subject to taxation unless . . . held and used exclusively for . . . municipal . . . or charitable purposes."

[76] State *ex rel.* Burbidge *et al.* v. St. John, Tax Assessor, 197 S. 131 (Fla., June, 1940). [77] (Same case), 197 S. 549 (Fla., Aug., 1940).

holding that inasmuch as the state police power is undergoing rapid expansion, and "municipal purpose" is no longer restricted to enterprises that are strictly governmental, the legislature's decision on this point should be accepted as final.[78]

Labor, Employment, and Relief. Workmen's compensation, employment agency and wage regulation, and relief supplied four cases worthy of note. Thirty years after the Ives decision,[79] and on the weight of the arguments in that much criticized case, the West Virginia supreme court of appeals voided a compensation law which imposed liability on employers without fault.[80] A decision which emphasized the vagaries of substantive due process and caused the United States Supreme Court expressly to overrule Ribnik v. McBride[81] was the Nebraska court's holding that a statute limiting the fees of private employment agencies violated federal but not state due process.[82] A unanimous Michigan court sustained a statute which required wage parity between the sexes for equal work done under equal conditions.[83] And finally the Oklahoma Unemployment Compensation Act, which stipulated that small units employing less than eight employees might be grouped together to make the act applicable if the units were owned by the same interest, was upheld by the state's high court.[84]

Fiscal Powers. Self-imposed judicial restraint failed to prevent high courts from interfering with state fiscal policy. The Minnesota supreme court successively invalidated a franchise tax unconstitutionally imposed on railroad income,[85] a chain store tax for a second time,[86] and an attempt

[78] State *ex rel.* Harper v. McDavid, Tax Assessor *et al.*, 200 So. 100 (Fla., Feb., 1941). Compare State v. City of Tallahassee, 195 So. 402 (Fla., Mar., 1940), wherein the erection of an office building for rental to state, county, and federal governments was held a municipal purpose, and Brown v. Winton *et al.*, 197 So. 543 (Fla., July, 1940), wherein the erection of a cold storage plant for rental purposes was held a municipal purpose. Cf. Hogue v. Housing Authority of Little Rock *et al.*, 144 S.W. (2d) 49 (Ark., Nov., 1940).

[79] Ives v. South Buffalo R. Co., 94 N.E. 431 (N.Y., 1911).

[80] Prager v. W. H. Chapman & Sons Co., 9 S.E. (2d) 880 (W. Va., July, 1940).

[81] 277 U.S. 350 (1928).

[82] State *ex rel.* Western Reference & Bond Assn., Inc., v. Kinney, Secretary of Labor, 293 N.W. 393 (Neb., Aug., 1940); reversed in Olsen, Secretary of Labor of Nebraska, v. Nebraska, 85 L. ed. 820 (April, 1941).

[83] General Motors Corporation v. Read, Atty. Gen., *et al.*, 293 N.W. 751 (Mich., Sept., 1940).

[84] Gibson Products Co. v. Murphy, 100 P. (2d) 453 (Okla., May, 1940). The Illinois Pauper Act imposed a three-year local residence requirement as a condition for poor relief. This act was sustained in spite of the fact that faulty pleadings prevent a clear-cut statement of the law. People *ex rel.* Heydenreich *et al.* v. Lyons, 30 N.E. (2d) 46 (Ill., Dec., 1940). See note, *Univ. of Chicago Law Rev.*, Vol. 8, p. 544 (April, 1941).

[85] State v. Duluth, Missabe and Northern Railroad Co., 292 N.W. 401 (Minn., Dec., 1939. Reargument denied April, 1940). For judicial construction of the right

to divert the state gasoline tax,[87] Wisconsin's superior court judges unanimously agreed that a $50,000 state appropriation to defray the "usual and necessary expenses attendant upon . . . obtaining and holding" the 1941 American Legion Convention in Milwaukee constituted a forbidden loan of the state's credit and an unconstitutional delegation of legislative power to the national officers of the Legion;[88] and finally, Washington supreme court decisions[89] which ignored severability clauses and invalidated as a whole certain fuel-oil taxes which had exempted locally-refined oils prompted critics to argue[90] that "the attitude and reasoning of the court . . . applied to the gasoline, cigarette, and sales tax statutes would result in decisions that each was unconstitutional."

Local Business Taxes. Ordinances of Ohio and Missouri municipalities imposing prohibitory license fees upon out-of-town bakeries competing with local bakeries were declared unconstitutional by the courts of those states.[91] A tax imposed upon non-resident automobile operators by the town of Jackson was voided by the Kentucky court of appeals.[92] The same court nullified a two per cent gross premium tax levied by Louisville upon

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of Maryland to tax the Baltimore & Ohio Railroad, see Levin *et al.* v. Baltimore & Ohio Railroad Co., 17 A (2d) 101 (Md., Jan., 1941).

[86] National Tea Co. *et al.* v. State, 294 N.W. 230 (Minn., Sept., 1940). See note, *Yale Law Jour.*, Vol. 49, p. 1463 (June, 1940).

[87] Cory v. King, Auditor, *et al.*, 296 N.W. 506 (Minn., Feb., 1941). For an interesting conflict that developed in South Carolina over gas fund diversion, see State *ex rel.* Edwards v. Osborne *et al.*, 7 S.E. (2d) 526 (S.C., Feb., 1940), and State *ex rel.* Edwards v. Osborne, 11 S.E. (2d) 260 (S.C., Oct., 1940).

[88] State *ex rel.* American Legion 1941 Convention Corporation of Milwaukee v. Smith, State Treasurer, 293 N.W. 161 (Wis., June, 1940). Confronted with much the same problem of defining the permissible limits of the taxing power used for purposes of state advertising, the Michigan supreme court sustained a one-cent-per-bushel or two-cents-per-hundredweight tax on the privilege of marketing Michigan-grown apples, the resulting revenue being used for purposes of sales stimulation. Miller *et al.* v. Michigan State Apple Commission *et al.*, 296 N.W. 245 (Mich., Feb., 1941).

[89] State v. Inland Empire Refineries, Inc. (Montana Headlight Oil Co. *et al.*, Interveners), 101 P. (2d) 975 (Wash., April, 1940). Great Northern Railway Co. v. Cohn, Acting Director of Licenses, *et al.*, 101 P. (2d) 985 (Wash., April, 1940). See also City of Seattle v. Rogers, 106 P. (2d) 598 (Wash., Oct., 1940), wherein the supreme court invalidated a Seattle ordinance requiring a prohibitory license fee for conducting a charity campaign for profit.

[90] John B. Sholley, "Are the Gasoline, Cigarette, and Sales Taxes Unconstitutional?," *Washington Law Rev.*, Vol. 15, pp. 215–38 (Nov. 1940).

[91] Nickles v. Echelburger, Mayor, 31 N.E. (2d) 474 (Ohio App., Mar., 1941); Fetter v. City of Richmond *et al.*, 142 S.W. (2d) 6 (Mo., July, 1940).

[92] Davis v. Pelfrey, 147 S.W. (2d) 723 (Ky., Jan., 1941). However, the Paducah tax imposed on both resident and non-resident automobile operators was sustained by the same court. Johnson v. City of Paducah *et al.*, 147 S.W. (2d) 721 (Ky., Jan., 1941).

fire insurance companies for the benefit of the firemen's fund. By prior ordinance the city had levied a two and one-half per cent privilege tax on all local fire insurance premiums. Thus the court considered the latest tax to violate public policy against double taxation and also to be lacking in uniformity, since the burden was imposed solely upon owners of insured property, whereas the firemen's obligations were toward all combustible property.[93]

[93] City of Louisville *et al.* v. Aetna Fire Ins. Co. *et al.*, 143 S.W. (2d) 1074 (Ky., Oct., 1940).

Campaign Finance in the Presidential Election of 1940.[1] Important changes in the regulations governing receipts and expenditures of party committees, enacted in the summer of 1940, make a study of the financing of the presidential election of that year particularly interesting and significant. "Hatch Act II," designed primarily to extend to certain state and local employees limitations upon political activities already imposed upon federal office-holders by "Hatch Act I," introduced a number of radical changes in the rules governing the collection of campaign funds.[2]

Section 21 of the act made it illegal for any "political committee" to receive contributions or make expenditures, during any calendar year, aggregating more than $3,000,000.[3] Section 13 limited to $5,000, in any calendar year, contributions of persons or associations to any campaign "for nomination or election, to or on behalf of, any candidate for an elective federal office (including the offices of President of the United States and presidential and vice presidential electors)," with the stipulation, however, that such limitations should not apply to contributions to state or local committees. The same section, in sub-section (c), also declared it unlawful for any person or corporation to purchase "goods, commodities, advertising, or articles of any kind or description," where the proceeds of such purchase would benefit the candidates for federal elective office—a provision obviously aimed at the famous convention book which was an important source of revenue to the Democratic National Committee in 1936.[4]

State attempts to meet the problem of the "power of the purse" by imposing flat limitations upon the size of contributions and the total expenditures of candidates or party committees in elections are no novelty,[5] and the amount which candidates for senator and representative in Con-

[1] This study was made possible by a research grant from Wellesley College, which the writer acknowledges with grateful appreciation. She wishes also to take this opportunity to thank officers of the Democratic and Republican national committees, members of the staff of the Gillette Committee, and the clerk of the House of Representatives for the many courtesies extended to her in the preparation of this article.

[2] The first Hatch Act, Public Law No. 252, 76th Congress, was approved August 2, 1939. The second, Public Law No. 753, approved July 19, 1940, was in the form of an amendment to the earlier act. The provisions of these two acts, together with the Federal Corrupt Practices Act of 1925, are published in convenient pamphlet form under the title "Political Activities and Federal Corrupt Practices Acts," as Sen. Doc. No. 264, 76th Cong., 3d Sess.

[3] According to Section 302(c) of the Federal Corrupt Practices Act, a "political committee" is "any committee which accepts contributions or makes expenditures for the purpose of influencing the election of candidates . . . in two or more states. . . ." [4] The venture netted the committee about $250,000.

[5] See discussion in the writer's *Money in Elections*, pp. 308–12, 43–48.

gress may spend, except for designated purposes, has been limited since 1911. But the 1940 act marked the first attempt to limit either the amount that an individual might contribute to a national committee or the total expenditures of such an agency. Some idea of how drastic these limitations are becomes apparent when one remembers that John J. Raskob contributed $110,000 to the Democratic National Committee in 1928, that in 1936 William Randolph Hearst and John D. Rockefeller, Jr., each contributed $50,000 to the Republican National Committee, that in 1928 Democratic expenditures exceeded $5,000,000, and that more than $8,000,000 was expended by the Republicans in 1936. In analyzing the 1940 campaign funds, attention has been focussed upon the effect of the Hatch Act limitations. Are these provisions effective as they stand? Should they be strengthened? Should they be continued as they are? Should they be repealed? These are the questions which have been uppermost in the writer's mind in undertaking this study.

Fortunately for the investigator, the regular reports filed by treasurers of party committees were supplemented by information assembled by a Senate committee and by a special grand jury. Following its usual practice, the Senate appointed a special committee to investigate presidential, vice presidential, and senatorial campaign expenditures.[6] This committee, under the chairmanship of Senator Guy M. Gillette of Iowa, displayed a commendable effort to avoid the political pyrotechnics and partisan tendencies that have characterized some of its predecessors. On the other hand, its members seemed to lack the fundamental interest in problems of campaign finance which characterized the work of such crusaders as James A. Reed, William E. Borah, and Gerald Nye. It limited its investigations rather narrowly to complaints brought by others, and it was obviously handicapped by dissension within its own ranks,[7] and by the fact that its chairman was forced to give a good deal of attention and energy to the "Lend-Lease" bill hearings before the Committee on Foreign Relations just at the time that the report on campaign funds was being prepared.

In its report, the committee proposes no specific legislation, but limits itself to recommending "exploration and study by the United States Senate of remedial legislation" designed to accomplish certain enumerated objectives and suggests that the Senate Committee on Privileges and Elections "make a thorough study of the situation with a view of proposing any amendments to existing law which may be deemed by that committee to be in the public interest."[8] Nevertheless, the information as-

[6] Senate Resolutions 212, 291, and 336, 76th Cong., 3d Sess., and Senate Resolution 59, 77th Cong., 1st Sess.; appointed Feb. 1, 1940.

[7] Note Senator Tobey's "minority views" and "supplemental reports," and Senator Adams' statement.

[8] United States Senate Special Committee to Investigate Presidential, Vice Presidential, and Senatorial Campaign Expenditures, 1940, *Report No. 47* (77th

sembled by an unusually able corps of assistants is an invaluable source of material for anyone wishing to probe into the effects of the Hatch Act. Particularly useful is the compilation of expenditures of state and local committees, which are not required to file reports at Washington; the investigation of the activities of the various Republican finance committees; and the tabulation of contributions by prominent individuals and families.[9] Without this data, the picture of the financing of the campaign would be incomplete indeed.

A different, but equally important service, was rendered by the special investigation conducted by Maurice M. Milligan, special assistant to the Attorney General. Although the special grand jury convened to hear the evidence presented by Mr. Milligan brought in no indictments, the investigations were the basis for sweeping condemnations of the wording of the present law, and specific, constructive proposals for remedial legislation. It is in itself a sign of progress that the Department of Justice should have displayed this interest in the enforcement provisions of the corrupt practices legislation. Mr. Milligan's recommendations will be considered later.

Both parties had ended the campaign of 1936 in debt, the net deficit of the Democratic National Committee being $445,000, that of the Republicans, $915,000.[10] During the following three years, both headquarters maintained active organizations and raised substantial sums, as Table I shows. More than one-third of all that the Democrats raised during this period came from Jackson Day dinners and late sales of the famous *Book of the 1936 Convention*. By January 1, 1940, the Democratic deficit had been reduced to $219,000, some $120,000 of which represented unpaid loans. In the next two months the party performed the Herculean task of wiping out its indebtedness altogether, largely by that never-failing money-raising device, the Jackson Day dinner.[11] Thus the Democrats began the active campaign with their books balanced. On January 1, 1940, much of the Republican indebtedness was still outstanding. During the next two months, more than $639,000 was expended to meet unpaid bills of the 1936 campaign.

The limitations of the Hatch Act, imposing a drastic change in rules just as the whistle was blown for the beginning of the presidential contest, caused concern in the rival political camps and necessitated some rapid

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Cong., 1st Sess., Feb. 15, 1941), pp. 79–80. Hereafter this will be cited as Gillette Committee, *Report*.

[9] Gillette Committee, *Report*, pp. 8–9, 117–29, 143–48.

[10] See "Campaign Funds in the Presidential Election of 1936," in this REVIEW, Vol. 31 (June, 1937), pp. 496–7.

[11] $336,000 of the $412,000 received between Jan. 1 and Feb. 28, 1940, was from Jackson Day dinners.

TABLE I
RECEIPTS AND DISBURSEMENTS OF NATIONAL COMMITTEES, 1937–39[12]

Year	*Democratic*		*Republican*	
	Receipts	*Expenditures*	*Receipts*	*Expenditures*
1937	$1,294,748	$1,461,273	$ 628,047	$ 632,186
1938	1,041,669	1,039,834	1,572,985	1,578,296
1939	731,116	736,709	1,092,038	737,188

changes in financial plans. The loosely-drawn, ambiguously worded provisions of the law made the task not too difficult.

The Democrats were poor, but solvent, and disposed to make a virtue of necessity. In testifying before the Gillette Committee in September, their treasurer, Oliver A. Quayle, stated that although a strict interpretation of the act might not require it, his party was prepared to limit to $3,000,000 the aggregate expenditures of all organizations functioning nationally, and that obligations contracted for prior to January 1, 1940, but paid after that date, as well as all other disbursements made during the calendar year but prior to the date of the passage of the Hatch Act, would be included as 1940 expenditures.[13] The one important change in plans which the act forced the Democrats to make concerned the *Book of the Democratic Convention of 1940*. When the act was passed, plans for a book similar to that of 1936 had been completed and advertising to the amount of $340,000 had been sold on a commission basis, netting the committee about $170,000. After some grumbling, the plans were abandoned; sale of advertising ceased, and the book was given away instead of being sold, as had been intended.[14]

Certain interpretations of the Hatch Act would have seriously embarrassed the Republicans. As has been pointed out above, the national committee disbursed more than $639,000 in January and February, 1940, in payment of 1936 campaign bills. C. B. Goodspeed, treasurer of the committee, argued that this amount should not be included as 1940 expenditures.[15] There was also disagreement concerning collections made by the national committee under arrangements with state committees and remitted to them, and sums advanced to the senatorial and congressional campaign committees.[16] Mr. Goodspeed's irritation at an interpretation of the law which would have included these within the $3,000,000 to which

[12] Data from reports on file in the office of the clerk of the House.

[13] United States Senate, Special Committee Investigating Campaign Expenditures, 1940, *Hearings*, Vol. II, pp. 197 ff. These hearings were not printed, but the writer had access to a mimeographed committee copy. They will be referred to hereafter as Gillette Committee, *Hearings*.

[14] *New York Times*, August 11, 12, 13, 18, 1940.

[15] Gillette Committee, *Hearings*, Vol. II, pp. 188 ff. [16] *Idem*.

the Republican National Committee was limited was plainly visible when he said to the Gillette Committee: " . . . It cannot be that it was the intention of Congress to make it impossible for a political party to present their candidate and his policies to the public. Otherwise they cannot vote intelligently and we haven't democracy. If everything is taken off us, we will not have as much as Wrigley has got to present his chewing gum to the country."[17]

Immediately after the passage of the Hatch Act, the joint fund-raising agreements between the Republican National Committee and the state organizations were canceled, the fund-raising subcommittees of the national committee were dissolved, and a series of state finance committees were created.[18] Thus what was hardly more than a paper reorganization brought the money-raising agencies within the letter of the act.

Most important of all, from the Republican point of view, was the status of the Associated Willkie Clubs and similar nationally organized independent committees. Representatives of these organizations interpreted the act to permit an expenditure of $3,000,000 by *each* of these committees.[19] Senator Hatch maintained that it was the intent of Congress to limit to $3,000,000 the *aggregate* collections and expenditures of all national committees supporting Willkie.[20] From Colorado Springs, Mr. Willkie added to the confusion by announcing that he "did not believe in an expensive campaign," that "the combined total expenses of the Republican party, the Willkie-for-President Clubs, and the independent Democratic movement" would be "under $3,000,000, the limitation set by the Hatch Act," and that he was in favor of the act.[21] From a study of subsequent tables, it will become evident that the Republican standard-bearer proved a poor prophet.

The expenditures of the two national committees are summarized in Table II. Comparison of these figures with those of other recent campaigns shows a sharp reduction.[22] One must go back to the depression year of

[17] Gillette Committee, *Hearings*, p. 196. [18] Gillette Committee, *Report*, p. 9.

[19] See the statement of Henry P. Fletcher, general counsel of the Republican National Committee, *New York Times*, August 4, 1940, and testimony of C. B. Goodspeed and Orren Root, Jr., Gillette Committee, *Hearings*, Vol. II, pp. 34 ff. and 188 ff. [20] Gillette Committee, *Hearings*, Vol. III, p. 315.

[21] *New York Times*, Aug. 4, 1940, p. 1.

[22] The total expenditure of the national committees in recent election years, including bills unpaid and advances to other committees, were as follows:

Year	*Democratic*	*Republican*
1928	$5,342,350	$6,256,111
1932	2,245,975	2,900,052
1936	5,194,741	8,892,972
1940	2,783,654	3,451,310

TABLE II
EXPENDITURES OF NATIONAL COMMITTEES,
JANUARY 1 TO DECEMBER 31, 1940[23]

	Democratic	*Republican*
Disbursements, Jan. 1 to Dec. 31	$2,438,092[a]	$3,451,310
Bills unpaid	345,562[b]	—
Total	$2,783,654	$3,451,310
1936 campaign debts or loans repaid	$ 149,500	$ 639,307[c]
Transfers to state and other committees	436,338	569,261[d]
1940 national committee expenditures	2,197,816	2,242,742[e]
Total	$2,783,654	$3,451,310

[a] Includes loans repaid, totaling $149,500. This is the figure used by the Gillette Committee and does not include "contracts in the amount of $162,674.20, which were assigned to other committees."

[b] Figure as of Aug. 31, 1940, the last figure given. This is exclusive of $77,500 "borrowed money."

[c] This amount is deducted from the Republican report of Sept. 1, 1940, and omitted from all subsequent reports as "in relation to 1936 campaign."

[d] The Republican report of Jan. 1, 1941, deducts this sum from receipts and expenditures as "received by the Republican National Committee as agent for state committees and remitted back to state committees in accordance with agency contracts entered into prior to the passage of the Hatch Act."

[e] This is the figure used by the Gillette Committee.

1932 to find comparable figures. The combined expenditures of the two committees were less than the $8,890,000 distributed by the Republicans alone in 1936, and exceeded by only $1,000,000 the $5,194,000 which the Democratic National Committee spent in that year. The Democrats clearly kept within the limits of the Hatch Act. Whether or not the Republicans exceeded the limit depends upon how the act is interpreted. If one includes the $639,000 disbursed in payment of 1936 bills, and the $569,000 collected by the national committee and returned to the state committees under contracts entered into before the passage of the Hatch Act, the total exceeds $3,000,000. If either of these amounts is excluded, the total is well within the limit.

As usual, the largest single expenditure of both national committees was for radio broadcasting. The Democrats spent $387,224, representing 17.6 per cent of their total outlay, and relatively more than the $582,000 expended in 1936. During the calendar year, the Republican National Committee disbursed about $570,000 for radio broadcasting, although

[23] Data from reports filed in the office of the clerk of the House.

more than $200,000 of this was in payment of 1936 bills. The expenditure for radio broadcasting and transcriptions which may properly be charged to the 1940 campaign was about $335,000, representing fifteen per cent of the expenditures of the national committee during the calendar year 1940. The Democrats spent $57,569 for transportation, the Republicans $133,000, representing 2.6 per cent and six per cent of their respective disbursements. The printing bill of the Democratic National Committee was $158,527, and of their Republican rivals $184,460, or 7.2 and eight per cent of the two budgets.[23a] The mushroom-like growth of such organizations is evident from the fact that the weekly pay roll of the Democratic National Committee rose from $3,288 in January to $18,920 in the last week of October, only to shrink to $3,617 in December.

If one stopped with the expenditures of the national committees, one would have a very incomplete picture of the financing of this campaign and of the effect of the Hatch Act; the real story appears only when one probes into the expenditures of other organizations. The importance of the various finance committees which the Republicans organized after the passage of the Hatch Act is evident from a study of Table III. Exclusive of funds transferred to the national committee, and accounted for in Table II, these agencies collected more than $6,600,000. Some of these

[23a] The writer is indebted to Mr. Goodspeed, treasurer of the Republican National Committee, for a copy of the committee's audit of the expenditures from June 29 to December 31, which makes it possible to present the following interesting analysis of the expenditures of that committee during the campaign proper:

Salaries		$ 361,986
Office expenses, including rental, furniture, taxes, supplies		108,850
Publicity		
Radio, including transcriptions	$336,488	
Buttons	48,606	
Motion pictures	68,453	
Sound trucks	47,444	
Photographs and lithographs	30,020	
Plate and mat service	56,277	
Printing literature	103,188	
Newspaper advertising, billboards, and miscellaneous	19,455	709,932
Travel, including special train, aviation, and expenses of speakers		259,172
Telephone, telegraph, express, postage		131,392
Legal and professional		29,234
"Contingent"		30,428
Aid to states		25,033
College Republicans		5,282
Special activities		1,161
Entertainment		7,264
Miscellaneous		5,500
Total		$1,675,234

TABLE III

RECEIPTS AND EXPENDITURES OF IMPORTANT REPUBLICAN FINANCE COMMITTEES, 1940[24]

Organization	*Receipts*	*Expenditures*
Republican Finance Committee of Northern California	$ 171,642	$ 170,401
Republican Finance Committee of Southern California	233,608	223,330
Republican Finance Committee of Connecticut	361,667	335,436
Republican Finance Committee of Delaware	103,652	104,246
Republican Finance Committee of Illinois	742,287	711,841
Kentucky Finance Committee	163,785	162,301
Republican Finance Committee of Michigan	376,983	338,203
Republican Finance Committee of Missouri	454,061	458,284
Republican Finance and Budget Committee of Nebraska	88,164	78,322
New Jersey Republican Finance Committee	545,811	523,939
United Republican Finance Committee of Metropolitan New York	1,989,969	1,609,995
Republican Finance Committee of Ohio	446,007	404,025
Republican Finance Committee of Oregon	94,115	85,279
Republican Finance Committee of Pennsylvania	1,162,645[a]	1,094,044[a]
Republican Finance Committee of Tennessee	12,395	12,395
Total	$6,946,791	$6,312,041
Transferred to Republican National Committee	328,633	328,633
Net Total	$6,618,158	$5,983,408

[a] Exclusive of funds held in escrow for counties and handled as receipts for accounting purposes only.

funds were distributed to state and local committees, some were spent directly; but all of them aided the presidential candidate of the Republican party, directly or indirectly. Legislation which permits an unlimited number of such committees to raise and spend $3,000,000 each leaves a hole as wide as a barn door in the limitation and is farcical.

The end of the story has not yet been reached, as Table IV shows. In every presidential campaign, a certain number of non-party organizations rise to the support of their chosen candidates. In 1928, Hoover received the support of a variety of anti-Smith, dry organizations;[25] and Labor's Non-Partisan League and the Liberty League were among the numerous groups playing an important rôle in the 1936 campaign.[26] In no previous

[24] Figures for New Jersey and Pennsylvania and transfers from finance committees to Republican National Committee from reports filed in the office of the clerk of the House; other data from the Gillette Committee, *Report*, pp. 117–29.

[25] For a description of the activities of these organizations, see the writer's *Money in Elections*, pp. 165–8.

[26] See "Campaign Funds in the Presidential Election of 1936," *op. cit.*

TABLE IV

EXPENDITURES OF IMPORTANT NON-PARTY ORGANIZATIONS IN 1940[27]

Favoring Democrats	*Expenditures*
National Committee of Independent Voters for Roosevelt and Wallace	$ 250,455[a]
National Committee for Agriculture	131,489[b]
Business Men's League for Roosevelt	59,973
Young Democracy (Illinois)	26,394
Young Democratic Clubs of America	16,420
Hollywood for Roosevelt Committee	12,983
Non-Partisan League of Clothing Workers (New York)	12,405
Employees for Roosevelt (New York)	11,962
Democratic State Councils of Americans of Italian Origin	11,184
Labor Joint Committee for Roosevelt and Wallace (Ohio)	10,036
Favoring Republicans	
Associated Willkie Clubs of America	$1,355,604
Democrats for Willkie	416,808
National Committee to Uphold Constitutional Government	377,381
Citizens Information Committee	176,248
Maryland Committee	110,223
Willkie War Veterans	78,001
People's Committee to Defend Life Insurance and Savings	58,871
Jefferson Democrats of California	41,440
Pro-America	37,950
Willkie Magazine Fund	29,537
No-Third-Term Democrats of Illinois	23,352
Ohio No-Third-Term Committee	20,580
Independent Willkie Advertising Campaign	17,937
Women's National Republican Club	16,974
Clearing House for National Interests	13,580
National Committee of Physicians for Willkie	11,712
"We, the People"	11,414

[a] $54,100 of this was contributed by trade unions.

[b] $54,000 of this came from the Democratic National Committee.

campaign in our history, however, have the non-party agencies been as many and as varied as in 1940, and never before have they invested so heavily in a campaign.

The most important organizations aiding the Democratic candidates were the National Committee of Independent Voters for Roosevelt and Wallace ($250,000) and the National Committee for Agriculture ($131,489). In testifying before the Gillette Committee in September, Sol Rosenblatt, general counsel of the Democratic National Committee, stated that

[27] Figures from the Gillette Committee, *Report*, pp. 106–29.

although these organizations were independent of the national committee, it was aware of their activities, and that the aggregate expenditures of all three organizations would be kept within the $3,000,000 limit.[28] If bills unpaid at the end of the year are excluded from the disbursements of the national committee, and the $54,000 which this organization contributed to the National Committee for Agriculture is subtracted, the aggregate expenditure of the three organizations was $2,766,036, or well within the limit. If, however, one adds bills contracted for by the national committee but unpaid at the end of the year, the total would exceed the limit by over $110,000.[29]

From official and unofficial statements of those in command of the Democratic campaign, it is apparent that their early plans called for no large expenditure of funds and that they expected to keep the disbursements of the three national organizations well within the $3,000,000 limit.[30] Late in the campaign, thrown into a near panic by the rising tide of Willkie votes in the Gallup poll, a number of expensive national radio broadcasts were added to the publicity program. It was apparent that if these were paid for by the Democratic National Committee, aggregate expenditures of the three national organizations would exceed $3,000,000. Consequently, a few days before the election, radio contracts entered into by the national committee were canceled, and officials of that organization arranged to have various state committees assume these obligations and asked Richard J. Reynolds to lend them the funds necessary to finance the program. As a result of these arrangements, Mr. Reynolds made loans of $75,000 and $100,000, respectively, to the New York and New Jersey

[28] Gillette Committee, *Hearings*, Vol. II, pp. 166 ff.

[29]

Democratic National Committee	$2,438,092
National Committee of Independent Voters	250,455
National Committee for Agriculture	131,489
Total expenditures	$2,820,036
Contributions of Democratic National Committee to National Committee for Agriculture	54,000
Net Expenditures	$2,766,036
Unpaid bills of Democratic National Committee	345,562
Total running expenses	$3,111,598

[30] See Mr. Quayle's statements to the press after the passage of the Hatch Act (*New York Times*, Sept. 12, 1940) and his testimony before the Gillette Committee (*Hearings*, Vol. II, pp. 197 ff.). Similar statements were made to this writer by Mr. Quayle and other members of his staff early in October. The atmosphere of the headquarters of the Democratic National Committee at that time was one of optimism, and the opinion generally expressed was that the election would be carried without a large expenditure of money.

state committees. After the election, he lent an additional $100,000 to the New York committee. An earlier loan of $25,000 to the Illinois state committee was said to be for general campaign purposes. Mr. Reynolds' loan to state committees, therefore, totaled $300,000.[31]

Mr. Quayle's original statement that he, personally, arranged these loans with Mr. Reynolds was denied by Mr. Reynolds, who testified that the arrangements had been made by Wayne Johnson, national director of finance of the Democratic National Committee. In later testimony before the committee, Mr. Quayle admitted that his earlier statement was in error and corroborated Mr. Reynolds' version. Another point in dispute was whether the original contracts between the national committee and the radio companies were canceled before or after the election. Mr. Quayle's report of December 31, 1940, covered the transactions in the following note appended to the statement of disbursements: "Exclusive of obligations represented by contracts in the amount of $162,674.20 which were assigned to other committees."

Mr. Reynolds is a stockholder in the R. J. Reynolds Tobacco Company and numerous other corporations. He was director of finance for the national committee in North Carolina until his appointment as treasurer of the Democratic committee in January, 1941. His $100,000 loan to the New Jersey committee represented the bulk of its total receipts of $133,000.[32] Among the broadcasts paid for by these loans were President Roosevelt's speech the Saturday evening preceding the election, and the speech made by Senator Norris toward the close of the campaign.

The importance of non-party organizations in the financing of the Republican campaign is evident from Table IV above. As the campaign progressed, Mr. Willkie's hope that the combined expenditures of the national committee, the Willkie Clubs, and the Democrats for Willkie might be kept within the $3,000,000 was cast to the four winds. At the close of the campaign, their aggregate disbursements, exclusive of the national committee's payments on 1936 campaign bills and advances to the states, aggregated over $4,000,000.[33] In addition to these important nation-wide

[31] Gillette Committee, *Report*, pp. 10–11. See also the testimony of Mr. Quayle, Mr. Reynolds, and Charles D. Quinn, secretary of the New Jersey Democratic Central Committee, Gillette Committee, *Hearings*, Vol. VI, pp. 552–80; Vol. VIII, pp. 687–709; Vol. IX, pp. 752–3; and statement of Senator Tobey, Gillette Committee, *Report*, pp. 81–88, urging the committee to seek to determine whether these transactions constituted a conspiracy to violate the Hatch Act, and to recommend prosecutions to the Department of Justice.

[32] See Gillette Committee, *Report*, p. 124.

[33]

Republican National Committee	$2,242,742
Associated Willkie Clubs	1,355,604
Democrats for Willkie	416,808
Total	$4,015,154

organizations, more than eighty other independent groups had spent money in preaching the Willkie gospel.[34] The more important ones are listed above in Table IV. Some of these operated on a nation-wide scale, others within certain geographic sections, while many confined their activities to a single state or sub-division of a state. All but the National Committee to Uphold Constitutional Government came into being in 1940 and acknowledged that they were political committees.[35] The following list of names gives some idea of the variety of their appeals: "People's Committee to Defend Life Insurance and Savings," "Willkie Magazine Fund," "Willkie War Veterans," "We, the People," "National Committee of Physicians for Willkie," "Writers for Wendell L. Willkie," "Townsend National Voters League," "Stockyard District Willkie Club," "Chicago Business Men's Election Committee," "Minnesota Lawyers 'No Third Term Association' Committee," "Retailers for Willkie," "Clergymen's National Committee for Willkie," "Posters for Subway Platforms," "Lawyers No Third Term," "Labor for Willkie," "Willkie-for-President Club of Akron," "Jeffersonian Democrats of California," "Pro-America," and "Polish-American National Security League." Almost every stratum of society and every interest group was honeycombed by their activities; few remained outside the orbit of their comprehensive money-raising activities.[36]

Information assembled by the Gillette Committee concerning funds raised and expended by state and local committees, as well as those functioning nationally, makes it possible to present a more complete picture of the financing of a presidential campaign than has ever been available before. A summary, presented in Table V, shows a Democratic total slightly below $6,000,000. The Republicans spent slightly less than $15,000,000, making a total of close to $21,000,000. Unquestionably there are some duplications in these figures. Not all transfers of funds have been traced and deducted, although the more important ones were subtracted

[34] See Gillette Committee, *Report*, pp. 106–29. Some of these are listed in Appendix IV, some in Appendix V. The classification is not altogether logical, apparently being based upon whether the organization filed a report with the clerk of the House or with a state or local officer.

[35] According to the testimony of Samuel B. Pettengill, chairman of the National Committee to Uphold Constitutional Government, it was organized in 1937 to oppose the Supreme Court reorganization plan. The leading spirit was Frank Gannett of Rochester. Later, the organization opposed the reorganization of the administrative branch of the government, the Roosevelt "purge" in the 1938 primaries, the Wagner Act, "socialization of medicine," and the third term. In 1940, it claimed that it was not engaged in a campaign for the election of a particular candidate, and hence was not a "political committee" within the definition of the Corrupt Practices Act, but conceded that its anti-third-term activities aided Willkie. Gillette Committee, *Hearings*, Vol. III, pp. 222–56.

[36] In many communities there was literally house-to-house canvassing for funds.

in the Gillette Committee report. One should remember, also, that state committees spent funds on behalf of state and local candidates, as well as those on the national ticket. As the Gillette Committee points out, however, it is fair to assume that a large percentage of the expenditures of these state committees was made in support of the national tickets.[37] It should be remembered, also, that many of the expenditures of various local groups, not here included, aided the national tickets.

The $21,000,000 total above is not an accurate figure for the expenditures in behalf of Roosevelt and Willkie in 1940. But it is the closest approximation to the total cost of a national campaign which has ever been

TABLE V

SUMMARY OF EXPENDITURES IN PRESIDENTIAL ELECTION OF 1940[38]

	Democratic	*Republican*	*Total*
National committees			
Expended during campaign	$1,852,254	$2,242,742	
Bills unpaid	345,562	—	
Total	$2,197,816	$ 2,242,742	$ 4,440,558
Independent national groups[a]	557,048	2,832,167	3,389,215
State committees, including finance committees[b]	2,785,660	10,791,625	13,577,285
Independent state committees, groups, or individuals	314,558	754,901	1,069,459
Total	$5,855,082	$16,621,435	$22,476,517
Less transfers from finance committees to state committees		1,680,293	1,680,293
Net total	$5,855,082	$14,941,142	$20,796,224

[a] Including such important non-party organizations as the Associated Willkie Clubs of America and the National Committee of Independent Voters for Roosevelt and Wallace.

[b] Including the United Republican Finance Committee of Metropolitan New York and other similar finance committees.

[37] *Report*, pp. 10 and 11.

[38] Except for the national committees, these figures are taken from the Gillette Committee, *Report*, pp. 10–11, and tables, pp. 106–42. Unquestionably other transfers of funds should be subtracted from both lists, but it is impossible to trace these with accuracy.

made available, and the *relative* expenditures of the two parties deserve careful consideration. It is reasonable to suppose that the figures are as accurate in the case of one party as in that of the other. If this is true, more than twice as much was spent on behalf of the defeated candidate as was expended to re-elect the "third term candidate." Once again the losers were conspicuously more extravagant than the winners. The election of 1940, like the two earlier Roosevelt victories, shows that campaigns cannot be won by money alone.[39]

It is also evident from the above table that if the purpose of the Hatch Act was to limit to $3,000,000 the *aggregate* expenditures of all political committees supporting the same presidential candidate, it failed miserably. In fact, the act seems to have had no reducing effect whatever. In the one campaign for which we have even approximately comparable records—that of 1928—the combined expenditures of national, state, and independent committees was $16,500,000.[40] These figures are probably less complete than those for 1940, but with a very liberal allowance for that fact, it seems reasonable to conclude that more, rather than less, was spent in 1940. In 1936, the national committees spent more than they did in 1940, but since figures for the expenditures of other organizations are not available we have no basis for comparison of the total cost of these two campaigns.

The financing of the campaign by the national committees of the two parties (Table VI) is an interesting study in contrasts. Except for $200,000 received from the Convention Arrangements Committee, the Republican National Committee relied entirely upon cash contributions. The Democrats, however, raised more than $750,000 from Jackson Day dinners and the *Book of the 1940 Convention*, two money-raising devices which had proved their worth in 1936. In addition, it borrowed $105,000 in the course of the year. Except for $10,000 from the Manufacturers Trust Company borrowed early in January, there were no bank loans, and no single loan of more than $5,000. The total receipts of the national committees were conspicuously less than in 1928 and 1936, but exceeded those of the depression year 1932.[41]

The analysis of contributions presented in Table VII is interesting for

[39] See the writer's "Campaign Funds in a Depression Year," in this REVIEW, Vol. 27 (Oct., 1933), p. 770; and "Campaign Funds in the Presidential Election of 1936," *op. cit.*

[40] See *Money in Elections*, p. 75. The figures are from the report of the Steiwer Committee. The Democratic total was $7,152,000; the Republican, $9,433,000.

[41] The figures are as follows:

	Democratic	*Republican*
1928	$5,721,381	$6,610,273
1932	2,378,688	2,649,554
1936	5,206,159	7,761,039

TABLE VI
RECEIPTS OF THE NATIONAL COMMITTEES, JANUARY 1 TO DECEMBER 31, 1940[42]

	Democrats	*Republicans*
Cash contributions	$1,339,483	$2,931,210
Advertising in *Book*	338,069	—
Sale of convention boxes	6,000	—
Jackson Day dinners	422,582	—
Convention committee	125,000	200,000
Loans	105,000	—
Miscellaneous	115,998	2,657
Total	$2,452,132	$3,133,867*

* In the reports of the treasurer of the Republican National Committee, $569,260.76, "contributions received as agent for state committees and remitted back to state committees in accordance with agency contracts entered into prior to the passage of the Hatch Act, . . . ," is subtracted from this figure.

several reasons. Organized labor, in spite of John L. Lewis' endorsement of Willkie, contributed 6.2 per cent of the funds of the Democratic National Committee, relatively more than in 1936.[43] This does not mean, however, that labor gave Roosevelt more financial support in 1940 than in 1936, or that C.I.O. groups contributed as heavily. Much of the $770,000 which labor invested in the 1936 campaign was given to such independent organizations as Labor's Non-Partisan League, which were inactive in 1940. The only independent organization which received substantial financial support from labor in 1940 was the National Committee of Independent Voters for Roosevelt. More than $50,000 of the total receipts of this organization came from various trade union groups.[44] As the Gillette Committee made no special study of the rôle of the trade unions in 1940, it is impossible to tell how much they may have contributed to state and local committees.

The most generous trade union contributions to the National Committee of Independent Voters came from the International Ladies Garment Workers and the Amalgamated Clothing Workers, both of which gave generously in 1936. The United Mine Workers of America is conspicuously absent from the list of contributors, although one Tennessee local did make a $100 gift late in October. The Democratic National Committee received most of its financial support from local unions of brewery work-

[42] Data from the reports filed in the office of the clerk of the House.

[43] In 1936, labor contributed 5.1 per cent of the funds of the Democratic National Committee.

[44] See Table IV above. Labor's Non-Partisan League was inactive in 1940; it raised no funds and spent only $2,000.

ers, teamsters, and the railway brotherhoods, with some representation from groups in the building trades. The amounts were usually small—$100 or $200—and contributions of $1,000 or more were the exception. There is no evidence that the United Mine Workers, or any other labor group, contributed to the Republican National Committee or any of the national Willkie organizations.

TABLE VII

DISTRIBUTION BY SIZE OF CONTRIBUTIONS TO NATIONAL COMMITTEES, JANUARY 1 TO DECEMBER 31, 1940[45]

Group	*Democrats*			*Republicans*		
	No. of Contributors	*Amount Contributed by Group*	*Per Cent Contributed by Group*	*No. of Contributors*	*Amount Contributed by Group*	*Per Cent Contributed by Group*
$5,000 and over	35	$ 175,000	13.1	22	$ 111,000	3.8
1,000–4,999	158	262,536	19.6	712	1,123,127	38.3
100– 999	1,380	232,287	17.3	4,288	900,272	30.7
Less than $100	36,265	312,124	23.3	34,108	391,318	13.4
Impossible to allocate						
Labor	113	82,841	6.2	—	—	—
Other	47	274,695	20.5	39	405,494	13.8
Total	37,998	$1,339,483	100.0	39,169	$2,931,211	100.0

The relative importance of large and small contributors is also apparent from Table VII. Contributions of less than $100 made up 23.3 per cent of the Democratic fund, but only 13.4 per cent of the Republican fund was given in these small amounts. The small contributor has played an increasingly important rôle in the financing of the Democratic National Committee since 1928.[46] When one considers that in 1940 an additional six per cent of the party's contributions came from trade union groups, and that the receipts from Jackson Day dinners represent small, rather than large, contributions, one has convincing evidence that the Democratic party has returned to its Jeffersonian tradition and is once again

[45] This table includes *cash contributions* only. In the case of the Democrats, it does *not* include those who contributed by attending Jackson Day Dinners. Collections made by clubs or committees are listed as "Impossible to allocate." The number of contributions credited to "Labor" are those of *groups* rather than *individuals*, and each represented the gift of a large number of trade union members. The figure for the total number of Republican contributors represents the receipts issued during the calendar year 1940. The writer is indebted to Mrs. Mary C. Salisbury, comptroller of the Democratic National Committee, for the number of contributors to that organization.

[46] The percentages are as follows: 1928, 12.5; 1932, 16.0; 1936, 18.5.

the party of the "little fellow." In contrast to this, the small contributor played a less important rôle in the Republican party in 1940 than in 1936.[47]

A study of the upper brackets in Table VII shows a sharp decrease in importance of contributions of $5,000 or more. In 1936, 26.0 per cent of the contributions of the Democratic party fell into this class; in 1940, the percentage had dropped to 13.1 per cent. Even more striking is the drop in the Republican percentage from 24.2 to 3.8. However, if one probes into the contributions of the next two groups, one finds that although in the Democratic party the relative importance of contributors in the two groups, $1,000 to $4,999, and $100 to $999, remained constant in 1936 and 1940, in the Republican party, contributors in these two brackets were much more important in 1940 than in 1936.[48] Thus, in the Democratic party, the loss of large contributions was offset by many very small gifts, but in the case of the Republicans the change was the less radical shift from very large contributions to those of medium size. The fact that a large number of the contributions in the $1,000 to $4,999 group were in amounts of $4,000 makes the shift even less significant.[49]

In 1940, neither national committee made a spectacular "drive" for a record number of contributors, and the number giving to the respective party organizations was probably less than in 1936. The number of contributors to the Democratic National Committee was 37,998, while 39,169 contributions were recorded by the Republican National Committee.[50] However, neither figure gives an accurate picture of the number of persons participating in the financing of the campaign. The Democratic figure does not include the large number of trade union members whose dues helped make up the contributions from labor organizations, nor the numerous party enthusiasts whose attendance at Jackson Day dinners helped to swell the party fund.[51] The Republican figure is equally misleading because it does not include the number of persons contributing to the finance committees and to the numerous Willkie Clubs. There were over 29,000 contributors to the New Jersey Republican Finance Committee alone, and thousands contributed to the United Republican Finance Committee of Metropolitan New York.[52] It is not unlikely that more voters

[47] The Republican figures are: 1928, 8.2; 1932, 9.1; 1936, 13.5.

[48] In 1936, contributions of $1,000 to $4,999 represented 19.4 per cent of the total Democratic funds; contributions of $100 to $999 represented 18.0 per cent. The Republican figures for 1936 are as follows: $1,000 to $4,999, 26.8 per cent; $100 to $999, 23.9 per cent.

[49] There were 56 contributions of $4,000.

[50] The 1936 figures are: Democratic, 54,818; Republican, 84,770.

[51] Reports from 33 of the states which held dinners in 1940 indicate that they were attended by 18,159 persons. The writer is indebted to Mrs. Mary S. Salisbury, comptroller of the Democratic National Committee, for this information.

[52] The reports which this committee filed in the office of the clerk are spread through 37 fat volumes.

contributed to Willkie's campaign than to that of any Republican candidate in history.

One purpose of the Hatch Act was to limit individual contributions to $5,000 and, for the most part, the letter of the law was observed. The Democratic National Committee received no contributions of more than that amount during the calendar year 1940. The Republican records show a few cases in which the total contributed by an individual was $6,000. F. M. Hesse, of Pittsburgh, contributed $4,000 to the Republican National Committee before the passage of the Hatch Act, and $2,000 to the same organization in October, after the passage of the act. The records of the Associated Willkie Clubs of America credit Stanley Resor with $4,000 on October 16 and $2,000 on October 31. Contributions to a single organization, after the passage of the act, totaling more than $5,000 would seem to be a violation of its provisions, however leniently one interprets it.

In both parties, the aggregate contributions of husbands and wives or members of the same families frequently exceeded $5,000, as Tables VIII and IX show. The Biddles, the Claytons, the Davies, the Morgenthaus, and the Strauses, all of whom hold positions in the Roosevelt administration, were among the families contributing most generously to the Democratic Committee (Table VIII). Table IX includes only the more conspicuous family contributions to the Republican National Committee,[53]

TABLE VIII

FAMILIES CONTRIBUTING MORE THAN $5,000 TO DEMOCRATIC NATIONAL COMMITTEE, JANUARY 1 TO DECEMBER 31, 1940[54]

Name	*Address*	*Amount*
Biddle, A. J. Drexel, Jr.	Philadelphia, Pa.	$5,000
Biddle, Mrs. A. J. Drexel	Philadelphia, Pa.	5,000
Clayton, W. L.	Houston, Texas	5,000
Clayton, Mrs. W. L.	Houston, Texas	5,000
Davies, Joseph E.	Washington, D. C.	5,000
Davies, Marjorie Post (Mrs. Joseph E.)	Washington, D. C.	5,000
Getty, J. Paul	Los Angeles, California	2,500
Getty, Sarah C.	Los Angeles, California	5,000
Morgenthau, Henry	1133 Fifth Avenue, New York	5,000
Morgenthau, Mrs. Henry	1133 Fifth Avenue, New York	1,000
Morgenthau, Henry, Jr.	Washington, D. C.	1,000
Pauley, Edwin W.	Los Angeles, California	5,000
Pauley, Harold R.	Los Angeles, California	5,000
Straus, Nathan	Washington, D. C.	5,000
Straus, Mrs. Nathan	Washington, D. C.	5,000

[53] The Gillette Committee, *Report*, pp. 143–7, lists the contributions of other "prominent" families to various pro-Willkie organizations.

[54] From the reports filed with the clerk of the House.

but it gives convincing evidence that a limitation may be circumvented by substituting many small gifts for a single large one.

Table IX also demonstrates that a limitation upon the size of individual contributions which does not cover gifts to state and local committees is

TABLE IX

LARGE FAMILY CONTRIBUTIONS TO REPUBLICAN CAMPAIGN, 1937–1940.[55]

Name	*National Committee*		*Other Organizations 1940*	*Total Individual*	*Total Family*
	1937–39	*1940*			
Brown					
Donaldson	$ 1,000	$ 4,000	$ 17,000	$ 22,000	
Mrs. Donaldson	—	—	6,000	6,000	
Total	$ 1,000	$ 4,000	$ 23,000		$ 28,000
Copley, Ira C.	$ 2,000	$ 1,000	$ 29,900		$ 32,900
du Pont					
Eugene	—	$ 3,000	$ 2,500	$ 5,500	
H. F.	—	—	5,000	5,000	
Irénée	—	—	12,000	12,000	
Lammont	4,000	4,000	45,000	53,000	
Lydia	—	—	6,000	6,000	
Octavia M.	—	—	5,000	5,000	
Pierre S., III	—	—	5,000	5,000	
Reynolds	—	5,000	—	5,000	
Fifty-eight other members of family*	—	5,000	102,280	107,280	
Total	$ 4,000	$17,000	$182,780		$203,780

* A. Felix, A. Felix, Jr., Alfred V., Alice B., Miss Amy, Eileen M., Eleanor Hoyt, Eleuthera, Mrs. Eugene, Francis I., Henry B., Mrs. H. P., Hubert I., Irene S., Janet G., Mrs. Lammont, Mrs. Mary Chichester, N. R., P. S., Mrs. Pierre S., F. S. and Alice B., Rénée and Richard D. du Pont; also Alice du Pont Buck, Mary du Pont Faulkner, Rénée du Pont Kitchell, Jane du Pont Lunger, I. Sophie du Pont May, Mrs. Alice du Pont Mills, Alex du Pont Perkins, Edith du Pont Riegel, Mrs. Phyllis du Pont Schutt, Manoir du Pont Scott, Isabelle du Pont Sharp, Mrs. Deo du Pont Weymouth, Ellen du Pont Wheelwright, Esther du Pont Weir, James N. Andrews, H. F. Brown, Mr. and Mrs. John T. DeBlois-Wack, Molly Laird Downs, Alleta L. Downs, Mrs. Robert Downs, Natalie Edmonds, Mrs. James H. Faulkner, Lucile E. Flint, Mrs. Bruce Ford, C. N. Greenwalt, Margaretta L. Greenwalt, Rosa Laird, Wilhelmina Laird, William Winder Laird, Jr., Mrs. Sophie du Pont Laird, Ernest Nugent May, Anne Peyton, Richard Eveland Riegel, H. S. Schutt, H. Rodney Sharp, Mrs. Henry H. Silliman.

[55] Except for contributions to the National Committee, data are from Gillette Committee, *Report*, pp. 143–7.

TABLE IX (Continued)

Name	National Committee		Other Organizations 1940	Total Individual	Total Family
	1937–39	1940			
Pew					
J. Howard	$14,000	—	$ 23,000	$ 37,000	
J. N. (estate of)	—	—	5,000	5,000	
J. N., Jr.	14,000	—	17,500	31,500	
Mabel Ethel	14,000	—	22,500	36,500	
Mrs. Mabel Pew Myrin	14,000	—	19,500	33,500	
Eight other members of family	—	—	21,000	21,000	
Total	$56,000	—	$108,500		$164,500
Pitcairn					
Mrs. Clara D.	—	—	$ 5,500	$ 5,500	
Harold F.	$ 2,500	$ 1,900	1,500	5,900	
Raymond	2,500	1,900	1,301	5,701	
Theodore	2,500	1,900	2,000	6,400	
Five other members of family	—	—	13,113	13,113	
Total	$ 7,500	$ 5,700	$ 23,414		$ 36,614
Queeny					
Edgar Monsanto	$ 7,670	$ 5,000	$ 35,375	$ 48,045	
Mrs. Olga M.	5,000	—	1,000	6,000	
Eugene M.	—	—	1,000	1,000	
Total	$12,670	$ 5,000	$ 37,375		$ 55,045
Rockefeller					
John D., Jr.	$11,500	$ 2,500	$ 19,000	$ 33,000	
Mrs. John D., Jr.	6,500	1,000	15,000	22,500	
John D., III	9,000	—	5,000	14,000	
Lawrence S.	14,000	4,000	1,000	19,000	
Nelson A.	15,000	1,000	3,000	19,000	
Five other members of family	1,000	—	4,500	5,500	
Total	$57,000	$ 8,500	$ 47,500		$113,000
Sloan					
Alfred P., Jr.	$ 5,000	$ 4,000	$ 19,500	$ 28,500	
Mrs. Alfred P., Jr.	1,000	4,000	8,500	13,500	
Total	$ 6,000	$ 8,000	$ 28,000		$ 42,000
Grand Total	.....	.....	.....	.....	$675,839

farcical. Most of the money contributed by members of these families to the Willkie cause was given to organizations other than the national committee. The distribution of the gifts of two of these individuals is shown in Table X. Lammont du Pont contributed to three finance com-

TABLE X

DISTRIBUTION OF CONTRIBUTIONS OF THE TWO LARGEST CONTRIBUTORS TO THE REPUBLICAN CAMPAIGN, 1940[56]

du Pont, Lammont		
Republican National Committee	$4,000	
Republican Senatorial Campaign Committee	4,000	
Republican Finance Committee of New Jersey	1,000	
Republican Central Committee of New Jersey	3,000	
Maryland Committee	4,000	
Tennessee Republican Executive Committee	4,000	
West Virginia Republican State Committee	4,000	
Wyoming Republican State Committee	4,000	
Missouri Republican State Committee	4,000	
South Dakota Republican Central Committee	4,000	
Ohio Republican State Central Committee	1,000	
Indiana Republican State Finance Committee	4,000	
Republican Finance Committee of Pennsylvania	4,000	
Ohio Republican Finance Committee	4,000	
Total		$49,000
Queeny, Edgar Monsanto		
Republican National Committee	$5,000	
Republican Congressional Committee	4,000	
Republican Senatorial Campaign Committee	4,000	
Republican Finance Committee of Pennsylvania	4,000	
Republican Finance Committee of Connecticut	4,000	
United Republican Finance Committee of New York	750	
Kentucky Republican State Committee	4,000	
Missouri Republican Finance Committee	4,000	
Wyoming State Republican Committee	1,000	
Missouri Republican State Committee	4,000	
Paid personally to Ketchum, Inc., for services of advertising counsel	5,625	
Total		$40,375

mittees, to state committees as widely removed from his home state as South Dakota, Wyoming, and Missouri, as well as to the Republican National Committee and the Senatorial Campaign Committee. Edgar Monsanto Queeny, resident of Missouri, contributed to finance committees and state committees in Connecticut, New York, Pennsylvania, and Wyoming.

[56] From the Gillette Committee, *Report*, pp. 143–7.

The $203,000 contributed by members of the du Pont family, the $164,500 contributed by the Pews, and the $113,000 which the Rockefellers gave indicate that the framers of the Hatch Act failed to eliminate the dominant rôle of "America's Sixty Families" in the financing of political campaigns. The "haves" could, and did, rise to the defense of the system under which their fortunes had been made. Nevertheless, it is probable that the $5,000 limitation had some restraining effect. In 1936, the du Ponts and the Pews contributed more than $1,000,000 to various Republican organizations; in 1940, their financial stake in the campaign was less than half as great.

The Democrats, whether from virtue or from necessity, conformed more closely to the spirit as well as the letter of the $5,000 limitation. The aggregate contributions of an individual exceeded $5,000 in only one instance. A. J. Drexel Biddle, Jr., gave $5,000 to the Democratic National Committee on September 10 and an equal amount to the Pennsylvania State Committee on the same date.[57] One should not forget, however, that Richard J. Reynolds, who had contributed $5,000 to the Democratic National Committee in September, made loans to various state committees which totaled $300,000. This involved no violation of the Hatch Act, but it was hardly healthy financing.

A study of the economic interests of the larger contributors to the national committees, presented in Table XI, shows some interesting contrasts and gives further evidence of a Hamiltonian-Jeffersonian cleavage in 1940. The Democratic party failed to regain any of the support of the bankers and brokers who deserted the party in 1936,[58] and lost the support of most of the manufacturers. In 1936, manufacturers furnished 13.6 per cent of the large Democratic contributions, but in 1940 only 7.4 per cent came from this source. On the other hand, the Republican party received about the same proportion of its large contributions from bankers and brokers in 1940 as in 1936, and the support of manufacturers rose from 29.6 per cent in 1936 to 34.0 per cent in 1940. Almost half of all the Republican contributions of $1,000 or more came from these two groups in 1940. Particularly striking was the way in which the "giants" —iron and steel—came to the aid of the party.

The two groups which gave most generously to the Democratic party in 1940 were officeholders—diplomats for the most part—and organized labor. Four years before, these two groups had given about one-quarter of the contributions of $1,000 or more; in 1940 their share of the campaign fund rose to more than one-third. Brewers and distillers; oil men; newspaper, radio, and advertising interests; and members of the professions

[57] Gillette Committee, *Report*, p. 148.

[58] Only 3.3 per cent of the contributions of $1,000 or more came from this group in 1936, compared to 25.3 per cent in 1928 and 24.2 per cent in 1932.

TABLE XI

DISTRIBUTION BY ECONOMIC INTEREST OF CONTRIBUTIONS OF $1,000 OR MORE TO NATIONAL COMMITTEES, 1940[59]

Classification	*Democrats*		*Republicans*	
	Amount	*Per Cent*	*Amount*	*Per Cent*
Bankers and brokers	$ 16,000	3.1	$ 168,550	13.7
Manufacturers	38,500	7.4	420,077	34.0
Iron and steel[a]	*17,500*	*3.4*	*166,333*	*13.5*
Chemicals	*3,000*	*.6*	*39,000*	*3.1*
Other	*18,000*	*3.4*	*214,744*	*17.4*
Brewers and distillers	20,500	3.9	8,600	.7
Oil, including refining and oil land development	27,500	5.3	34,350	2.8
Mining, including coal, copper, and aluminum	—	—	38,350	3.1
Public utilities[b]	9,500	1.8	16,000	1.3
Merchants: wholesale and retail	10,000	1.9	32,500	2.6
Building materials (including lumber) and contracting	6,500	1.2	26,500	2.1
Newspapers, radio, advertising	23,369	4.5	22,500	1.8
Professions	44,500	8.6	50,250	4.1
Officeholders	100,500	19.3	—	—
Organized labor	82,841	15.9	—	—
Other classifications	29,000	5.6	72,700	5.9
Unidentified	111,667	21.5	343,750	27.9
Total	$520,377	100.0	$1,234,127	100.0

[a] Including industrial and farm machinery, but not automobiles.

[b] Including railroads, steamship lines, and buses, as well as gas and electricity.

(mostly lawyers) were also well represented among the Democratic contributors.

Although most of the newspapers of the country supported the Republican ticket in the campaign, their Democratic opponents received a larger percentage of substantial contributions from newspaper, radio, and advertising interests than did the G.O.P. Even more surprising, in view of the fact that the former head of the Commonwealth and Southern was the Republican standard-bearer, was the relative unimportance of contributions from power companies. These interests may have given to

[59] In identifying the interests of contributors, *Who's Who in America*, *Poor's Register of Directors of Corporations*, and the directories and telephone books of various cities were used. Under "Organized Labor" are included *all* contributions from trade unions, regardless of amount. Speaking strictly, none of these is a contribution of "$1,000 or more," since each includes many individual contributions.

other agencies, but their rôle in financing the Republican National Committee was insignificant.

Included among the steel manufacturers contributing to the Republican National Committee were representatives of the following companies: Alleghany, Bethlehem, Edgewater, Great Lakes, Inland, Laclede, Midland, National, Republic, Weirton, Youngstown. Allis-Chalmers, Buckeye Steel Castings Company, and Mesta Machine Company, manufacturers of machine parts, were also heavily represented. Among "other" manufacturers were makers of automobiles, glass, paper products, paints, rope, rubber, textiles, food products, electrical equipment, kodaks, adding machines, radios, fountain pens, soap, and toothpaste. The Monsanto Chemical Company and Eli Lilly, as well as the du Pont interests, were represented among the chemical manufacturers. The only large concerns represented among the contributors to the Democratic National Committee were the American Locomotive Company, the American Car and Foundry Company, and the International Business Machines Corporation.

The records show one interesting instance in which an officeholder in the Democratic administration contributed to the Republican National Committee. Secretary of the Navy Frank Knox, appointed to the cabinet as a Republican, contributed $1,000 to that party.

The Democratic National Committee ended the 1940 campaign with an indebtedness of $423,062. Of this, $77,500 represented money borrowed from various individuals in amounts of $5,000 or less; unpaid bills, chiefly for radio broadcasting, made up the balance. There was no substantial reduction in this indebtedness in the next two months, but on February 28, 1941, the committee had a balance of $99,000, reducing the net indebtedness to about $314,000—substantially less than the $440,000 net deficit of four years before.

The Republican National Committee faces the next four years in a much healthier financial state than after the 1936 campaign. Although its unpaid bills totaled $345,000 on October 31, 1940, all of these were paid before the end of the year, and Mr. Goodspeed, the retiring treasurer, was in the enviable position of being able to turn over to his successor a solvent organization.[60]

It is usually dangerous to condemn a legislative enactment on the basis of limited experience. Nevertheless, in this writer's judgment, the campaign of 1940 offers convincing evidence that the present Hatch Act, in so far as it attempts to regulate campaign funds, is ambiguous, unworkable, and conducive to unhealthy political practices. Similar conclusions were reached by the Gillette Committee[61] and the Special Assistant to the

[60] Letter from Mr. Goodspeed, dated Apr. 8, 1941, in reply to a specific query from the writer. [61] *Report*, p. 80.

Attorney General.[62] Mr. Milligan's carefully guarded, but explicit, statement on this point is well worth quoting in full: "We respectfully submit that in our opinion the present existing federal laws relative to contributions and expenditures of political parties are fatally defective in accomplishing the purpose intended by Congress and are, in our opinion, unenforceable under the conditions which have been presented in this investigation."[63]

If it was the intent of the framers of the Hatch Act to limit to $3,000,000 the *aggregate* contributions and expenditures of a political *party*, they failed to achieve that purpose. Expenditures on behalf of the Democratic *party* were almost double that amount, and the Republicans spent close to five times that sum.[64] The Special Assistant to the Attorney General characterized the expenditures as "excessive"; the Gillette Committee used the adjective "enormous." As both investigations point out, much of this expenditure was made deliberately in a manner to circumvent the spirit without violating the letter of the act. The real effect of the $3,000,000 limitation, so far as the Republicans were concerned, was an unfortunate *decentralization* of the collection and distribution of funds. Independent political committees and finance committees, each claiming the right to spend that amount, sprang up like mushrooms all over the country. In the early part of the campaign, the Democrats conformed to the spirit as well as to the letter of the act; but, faced with the possibility of being forced to abandon what they considered an essential last-minute radio campaign, they farmed out their contracts to various state committees with the assurance that the bills would be met by loans from a fairy godfather. Although no violation of the letter of the law was involved in these transactions, they certainly contravened its purpose. The effect of limitations which result in such devious practices is unhealthy rather than salutary.

The $5,000 limitation upon individual contributions was equally ineffective. As Mr. Milligan points out, the provision is nullified in the very act itself by the exceptions granted in the case of contributions to state and local political committees. The limitation probably had a certain nuisance value, and it may have made wealthy contributors more circumspect about the aggregate total of their gifts, as well as the organizations to which they were given, but if the framers of the act hoped to limit to $5,000 the financial stake which any one individual had in a political campaign, they failed miserably.

The one provision of the Hatch Act which seems to have been entirely effective was the section directed at the famous—or infamous—Democratic *Book*. This result may have been commendable, but it is hardly a

[62] Mimeographed report dated Feb. 26, 1941.

[63] *Ibid.*, p. 11. [64] See Table V above.

notable advance in the elimination of nefarious practices in the collection and distribution of campaign funds.

Granting that the Hatch Act failed in its major objectives, what then? Speaking broadly, there would seem to be three alternatives: (1) strengthen the act; (2) repeal the provisions and return to the *status quo ante;* or (3) repeal the provisions and substitute other types of regulation.

The Gillette Committee suggested the desirability of "exploration and study" of remedial legislation designed, among other things, to make the limitations of the Hatch Act effective.[65] The Special Assistant to the Attorney General recommended remedial legislation, admirably specific in character. His report proposed to make the $3,000,000 limitation effective by broadening Section 21 to prohibit any committee, other than the regular national party committee, from expending any funds whatever on behalf of the national party candidates, after the nominations are made, except with the written permission or consent of the regular national party committee.[66] This drastic centralization of financial control was to be accompanied by a clarification of the definition of "political committee." The problem of limiting the size of individual contributions was to be met by repealing Section 13 and substituting provisions "limiting the *aggregate* contributions any individual may make during one calendar year for political purposes."[67] The suggestion was added that the present $5,000 limit might be unnecessarily low for *aggregate* individual contributions.[68]

Experience with the Hatch Act, and Mr. Milligan's recommendations, raise an important issue which should be faced squarely. The existing limitations do not limit and have resulted in numerous circumventions of the law. If we are to have limitations that really limit, we must centralize the control of campaign funds in the hands of the national committee to an extent which would give pause to many a member of Congress who somewhat blithely voted for the Hatch Act in July, 1940. Limitations cannot be effective unless we are willing to take such action. This writer is inclined to doubt whether the adoption of Mr. Milligan's recommendations, carefully phrased as they are, would stop up all the gaps. When is money spent "on behalf of a candidate for President"? Would funds spent by state and local committees on behalf of the party ticket, state as well as national, be included? And if not, would not the limitation be rendered ineffective by expanding the activities of these committees? Would it not be possible to defeat the $5,000 limitation upon individual contributions by hanging gifts on more branches of one's family tree, or even one's business tree? The adoption of Mr. Milligan's recommendations would stop up many gaps in the Hatch Act, but, in the opinion of this writer, all of them cannot be plugged unless we are willing to take the drastic step of making all state and local committees subsidiaries of the national com-

[65] *Report*, p. 80. [66] Mimeographed report, p. 5.
[67] *Ibid.*, p. 8. [68] *Ibid.*, p. 9.

mittees and subject to complete financial control from that quarter. As long as any gaps remain, subterfuge will be resorted to, making it difficult if not impossible to assemble the information which is essential to any effective publicity regarding the financing of the campaign.

It has long been the conviction of the writer that the question whether a party has spent "too much" should be settled in courts of public opinion rather than in courts of law. It does not follow, however, that our present course should be a return to the *status quo ante*. Instead, we should adopt a constructive program laying more emphasis upon publicity and less upon prohibition.[69] If the ineffectiveness of the Hatch Act limitations in the 1940 campaign should lead to such a redirection of our attack upon the problem of money in elections, the act would have served a highly useful purpose.

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Public Ownership and Tax Replacement by the T.V.A. The state and county governments in the Tennessee Valley area, particularly in Tennessee, completed 1940 with one of their most pressing financial problems solved or well on the way to solution. The threatened loss of taxes to governmental units, resulting from the program of public ownership of power and the purchase by the Tennessee Valley Authority and the municipalities of the properties of private electrical power companies,[1] had been serious to many counties facing bankruptcy, curtailment of services, or exorbitant taxes. Besides the financial effects, the situation strikingly demonstrated the need for reforms in local government, mainly the consolidation of counties and the introduction of better budgeting and accounting practices. Moreover, the problem has also been significant because of certain issues resulting from the venture into public ownership. Should proprietary agencies of the national government engaged in competition with private business and acquiring existing taxable facilities be responsible for the taxes thereby displaced and replace them as a matter of policy? Are proprietary functions of the national government subject to state and local taxing authority? These issues have demanded widespread consideration not only in the Tennessee Valley area but also in other sections where public power programs are being tried on a large scale. A bill was introduced into Congress on September 30, 1940, to provide for payments to governmental units affected by displacement of taxes arising from the Bonneville Power Project,[2] and a more recent bill

[69] *Money in Elections*, pp. 374–404.

[1] For the companies affected and the taxes formerly levied on the properties purchased, see the Independent Offices Appropriation Bill for 1941, *Hearings before the Subcommittee of the Committee on Appropriations*, House of Representatives, 76th Cong., 3rd Sess., Part 2, p. 1713.

[2] S4390, 76th Cong., 3rd Sess.

applies to the proposed Arkansas Valley Authority Project.[3] The passage of the Norris-Sparkman amendment by Congress in June, 1940, whereby payments in lieu of taxes are being made by the T.V.A., has answered these questions and relieved the pressing financial aspects of the situation. The tax replacement provision has now been in operation more than six months, and an analysis of the period affords an interesting insight into its effects on the various governments concerned.

The issue regarding dislocation of taxes in the Tennessee Valley arose almost as soon as the construction of Norris Dam was under way. It did not become serious, however, until July, 1939, when an agreement was consummated between the T.V.A. and the Commonwealth and Southern Corporation whereby properties of the Tennessee Electric Power Company were sold to the Authority and certain municipalities of Tennessee.[4] The 1939 taxes were not greatly involved, since the principal taxes for the year had been pro-rated between the Company and the Authority as provided in the purchase contract. However, the problem became acute in 1940, when heavy losses were expected.

Analysis of the Taxes Displaced. The total amount of state and local taxes previously levied on electric utilities and reservoir lands acquired or intended for acquisition by the T.V.A. and the municipalities distributing T.V.A. power was estimated to be $3,221,000. Of this sum, $2,950,000, or 91.6 per cent, related to Tennessee alone, and the balance was distributed among the other five states in the Valley—Mississippi, Georgia, Alabama, Kentucky, and North Carolina—in the order named.[5] The losses of the latter states were expected to increase as the Authority extended its activities.

The loss in Tennessee was classified as follows:[6]

A. Ad Valorem Property Taxes

Agency Acquiring Property	*State*	*County*	*Municipal*	*Total*
T.V.A.	$28,603.02	$ 736,563.40	$ 57,149.83	$ 822,316.25
Municipalities	34,412.08	521,902.48	798,516.82	1,353,831.38
County Owned Systems	267.80	6,973.00	6,285.00	13,525.80
Coöperatives, etc.	2,191.78	57,497.14	10,877.01	70,565.93
Total	$65,474.68	$1,322,936.02	$872,828.66	$2,261,239.36

B. Gross receipts, franchise and privilege taxes, etc., to state of Tennessee, on properties acquired by all the agencies $ 800,426.00

C. Total displacement in Tennessee $3,061,665.00

[3] Arkansas Valley Authority Act of 1941, H. R. 1823, 77th Cong., 1st Sess., introduced Jan. 10, 1941.

[4] The contract is given in the hearings on the Independent Offices Appropriation Bill for 1941, *op. cit.*, p. 1668.

[5] These figures are from the Tennessee Valley Authority Release of Sept. 17, 1940.

Although the situation was very complicated and necessitated effective relief, much confusion of thought resulted from characterizing the entire $3,061,665 as a loss and attributing it to public ownership, especially the T.V.A. An analysis of the situation shows that only about half of the total might be termed a loss, while the balance was merely dislocated and might easily be replaced. In this balance was $798,516.82 representing municipal taxes formerly levied on the distribution systems acquired by the cities. This was in no sense a loss, since the contracts between the T.V.A. and the municipalities, as well as state laws establishing local power boards, provided that the systems continue to pay the municipalities the same amount of taxes that was formerly paid. In fact, the cities are much better off under public ownership than formerly. Besides effecting large savings from the lower rates on electricity used for governmental purposes, they are making high profits on the operation of the distribution systems. Furthermore, other ad valorem taxes formerly levied on the distribution systems, comprising $521,902 in county revenues and $34,412 in state revenues, were also merely displaced and might be recaptured under provisions of the contracts between the Authority and the municipalities. Legislative action was necessary to provide for replacement, however, and the policy governing each municipal power board was set forth in the special act creating it. The act establishing the Knoxville board[7] permitted it to replace former county and state taxes. On the other hand, the act creating the Chattanooga board[8] contained no provision requiring, authorizing, or even permitting, it to replace county or state taxes. In such an instance, the board collected and retained the amount that might go to the counties and state. This situation was also true of other cities in Tennessee and Alabama, and in both states the failure to share in the tax funds collected by the municipal systems has evoked bitter criticism and pressure on the legislatures. This is recognized as only a state problem that is expected to be remedied at the legislative sessions of 1941. Likewise subject to the states' jurisdictions are the comparatively small ad valorem taxes allocable to the county-owned systems, coöperatives, and associations. Altogether, $1,438,923 represented property taxes that might be recaptured.

In a different category was $800,426 of gross receipts, franchise, and

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[6] These figures are from the *Report on Tax Replacement Requirements in Tennessee, Necessitated by Sale of Private Electric Utility Property to Various Public Agencies*, Tennessee Tax Replacement Commission, by Stanley J. White and E. H. Eakle, Exhibit D, p. 16. (Hereafter referred to as the Tennessee Tax Replacement Commission Report.)

[7] Chap. 106, *Private Acts of the State of Tennessee*, 1939.

[8] Chap. 455, *Private Acts of the State of Tennessee*, 1935; and Chaps. 538 and 611, 1939.

other taxes formerly paid to the state of Tennessee by the power companies. No provision was made by the T.V.A. or the distribution systems for replacing this sum, and the T.V.A. admitted responsibility for only 42.2 per cent, since it acquired that proportion of the properties purchased from the companies, according to its figures. Furthermore, although the loss was a matter of grave concern in efforts to balance the budget, one could hardly doubt the benefits from public power when it was estimated that approximately eight million dollars would be saved annually by consumers in the state from the lower rates on electricity.

The crux of the whole replacement controversy was $736,563 formerly collected by the counties on private electric properties which were directly acquired by the Authority. Since this was a government corporation and therefore exempt from state and local taxation, the amount passed from the county tax rolls and was responsible for the widespread agitation for replacement by the state or national government. Unlike those county taxes that might be recovered from municipal systems and that incidentally related in the main to the most wealthy counties, the losses for which the Authority was responsible bore heavily on the poorest, most sparsely-populated, sections of the state. Altogether, there were nine counties in Tennessee that suffered a loss of 10 per cent or more in their annual revenues.[9] The relation of this loss to annual revenues, and of the assessed value of the property acquired by the T.V.A. to the total assessed value, is shown by the following table:[10]

	ASSESSED VALUE			ANNUAL REVENUES		
		T.V.A. Purchase			*T.V.A. Purchase*	
County	*Total County*	*Amount*	*Per cent*	*Total County*	*Amount*	*Per cent*
Polk	$14,062,008	$5,587,600	39.7	$373,082	$105,606	28.3
Marion	10,038,932	3,242,220	32.3	342,242	80,321	23.5
Wayne	2,655,392	642,580	24.2	114,791	18,763	16.3
Bledsoe	2,814,793	543,030	19.3	105,301	16,128	15.3
White	4,886,742	1,425,530	29.2	241,569	33,500	13.9
McMinn	8,746,084	1,585,400	18.1	384,507	51,106	13.3
Van Buren	1,280,239	537,390	42.0	64,358	7,739	12.0
Warren	6,649,372	2,231,985	33.6	314,923	36,828	11.7
Sequatchie	1,735,773	372,500	21.5	67,217	7,152	10.6

With a combined population of 136,265, according to the 1940 census, these counties averaged only 15,140 persons per county, which was approximately half that of the state as a whole. The combined taxable wealth, moreover, was $52,884,580, an average of $5,876,066 per county,

[9] Fannin county, Georgia, was second highest in the whole list of counties, losing 24 per cent of its revenue.

[10] These figures are from the hearings on the Independent Offices Appropriation Bill for 1941, *op. cit.*, p. 1719.

compared with $15,773,705 for the state. Faced with the loss of a large part of their revenue, the counties had the choice of increasing the tax rate or levying new taxes, curtailing governmental services, or requesting assistance from the state or national government.

Proposals for Replacement. Of the several possible courses, the least likely was replacing the losses by increasing the tax rate, already high in many counties. Also impractical was the proposal for each county to recoup its losses by taxing the local consumers of T.V.A. power, because the consumption was generally low in the counties experiencing the greatest losses. There were only 1,103 users of power in Polk county, and to replace the loss, each would have to be taxed more than $100.[11] The 71 consumers in Van Buren county would have to pay approximately the same amount.

The proposal for state assistance from a tax on consumers of T.V.A. power was even more controversial, and raised grave questions as to the feasibility, soundness, and efficacy of such a measure. An administration-sponsored bill in the Tennessee legislature to replace the state's loss by a three per cent gross receipts tax on the power revenues of the municipal distribution systems[12] encountered great opposition from the municipalities and was finally dropped. Opponents feared that a tax once imposed might be so increased as to destroy the purpose of the T.V.A. This attitude was well expressed by Leon Jourolmon, state utilities commissioner. "It would be to the best interests of the state," he said, "to adopt a policy to foster the widest use of electrical power, and not one which would consider municipal power systems as a source of state revenue."[13] This view was also reportedly held by the T.V.A.

Even if the state should levy a tax on the consumption of electricity and distribute the proceeds to the counties, the state constitution would probably defeat the purpose. The requirement that only general laws be passed was construed to restrict the distribution of payments to such bases as population or taxable wealth, without regard to the amount of loss. Counties suffering the most would thereby benefit the least, and the situation would not be relieved.[14]

A bill was proposed in the Alabama legislature to levy a tax of 1¼ mills on each kilowatt hour of electrical energy obtained from governmental

[11] See the testimony of Harry J. Schaeffer, county attorney of Polk county, *Hearings before the Committee on Military Affairs*, House of Representatives, 76th Cong., 3rd Sess., on Bills to Amend the Tennessee Valley Authority Act of 1933.

[12] The text of the bill is given in the *Tennessee Tax Replacement Commission Report*, p. 83. [13] *Nashville Tennessean*, Feb. 12, 1939.

[14] See statement of Attorney General Roy H. Beeler of Tennessee, *Chattanooga Tribune*, Apr. 29, 1940. Various suggestions were made to amend the state constitution. For the likelihood of this, see W. H. Combs, "An Unamended State Constitution: The Tennessee Constitution of 1870," in this REVIEW, Vol. 32, pp. 514–524 (June, 1938).

systems, and was also bitterly attacked by the municipalities selling T.V.A. power. They declared that the bill would establish a precedent for the state's taxing the departmental activity of a municipal government and open the way to the taxing of water, gas, and sewer systems.[15] Governor Dixon also opposed the bill, saying it was "basically unsound" for one governmental agency to tax another. However, he believed that a tax equivalent should be figured into the rates of the distribution systems, to be paid by the ultimate consumer.

In addition to the taxes on electricity proposed for the states or counties, a federal excise tax on the consumption of T.V.A. power was also advocated, for the purpose of putting the burden on those benefiting by cheap electricity. In view of the constitutional requirement that taxes should be uniform throughout the country, the question arose as to whether a federal tax could be imposed on T.V.A. consumers without applying uniformly to all electric consumers in the nation. Some legal opinion held that the tax would be constitutional if it applied to all purchasers of federal power projects.[16] Such a tax, however, has not been widely advocated.

Besides the taxes proposed on the consumers of electricity, still more controversial measures embodied taxes directly applicable to the T.V.A. The Tennessee Taxpayers Association, ignoring the long-established immunity of federal agencies, urged that the Authority and the distribution systems be required to pay to the state and local governments the same taxes formerly levied on the private companies.[17] Senator Norris, to whom the proposal was addressed, declared he would oppose any attempts to subject the T.V.A. to the taxing power of any state or local government. Such a suggestion, he emphasized, was abhorrent and "would bring about the complete destruction of all federal government functions."[18] This view was firmly supported by Congress, which later declared in the Norris-Sparkman Amendment for replacing the taxes:[19] "The payments herein authorized are in lieu of taxation, and the corporation, its property, franchises, and income, are hereby expressly exempted from taxation in any manner or form by any state, county, municipality, or any subdivision or district thereof."

In the face of constitutional precedent, however, two attempts were made to tax directly the Authority, or its operations, to recover alleged tax losses. The Georgia legislature enacted two laws authorizing the state, counties, municipalities, or school districts to tax agencies of the federal government or of another state engaged in the generation, distribution,

[15] *Florence* (Alabama) *Times*, Mar. 6 and May 16, 1939.
[16] *New York Times*, Dec. 8, 1939.
[17] *Chattanooga Free Press*, Mar. 31, 1939.
[18] *New York Times*, Dec. 9, 1939.
[19] Public Resolution No. 88, 76th Cong. (Chap. 432, 3rd Sess.), Sec. 39.

or sale of electricity, and subjecting all property in the state belonging to agencies of the United States engaged in proprietary as distinguished from governmental activities to state taxation, at the same rate as private corporations engaged in similar business.[20] The measure was intended to alleviate the situation in Fannin county, which was one of the counties most seriously affected by tax displacement. The action of the state was widely criticized. Commented Representative Dirksen (Republican, Illinois): "Should the statutes be upheld, it would mean that despite all the benefits conferred upon this area from federal funds, the taxpayers of the other states would be called upon to help replace the taxes lost as result of federal activities, despite the fact that the taxpayers in other states derive no benefit from this operation. This would be almost as bad as charging Santa Claus for the privilege of coming down the chimney."[21]

Regarding the Georgia law and the assumed authority of the state to tax federal power agencies which carry on proprietary functions, Joseph C. Swidler, member of the legal division of the Authority, vigorously denied its constitutionality. "There is no precedent in any Supreme Court decision to permit any state or political subdivision to tax any federal property. If T.V.A. property could be taxed, so could post-offices. The Supreme Court has ruled that we are performing a constitutional function. There is no distinction as to proprietary business under federal law as there is in the states. It's either constitutional and can't be taxed, or it's unconstitutional. We're constitutional and can't be taxed."[22]

Another attempt to tax the T.V.A. directly was made by the Hamilton county equalization board in Tennessee, and consisted of a forced assessment of two million dollars on its personal property located within the county. As in the case of the Georgia laws, no attempt was made to enforce the measure, and the controversy ended after the county equalization board abandoned the proposed levy, declaring that the necessity for the assessment was obviated by legislation then pending in Congress.[23]

Existing Tax Replacement Provisions. As the impending tax losses to county and state governments became pressing, opposition to the T.V.A.'s replacing the losses became centered on a criticism of the whole T.V.A. program, and especially of its utility as a yard-stick to determine power rates. If lost taxes were to be replaced, contended many, it should be done by the beneficiaries of the program, not by the taxpayers of the whole nation, who had already spent large sums on the project and who themselves derived no benefit. On the contrary, the revenues from T.V.A.

[20] Acts and Resolutions of the General Assembly of the State of Georgia, 1939, Part 1, Title III, Nos. 202 and 203.

[21] *Knoxville Journal*, Dec. 21, 1939.

[22] *New York Times*, Dec. 9, 1939.

[23] See the *Chattanooga Free Press*, July 30, 1939; *Chattanooga Times*, July 31, 1939; and *Knoxville News Sentinel*, Aug. 3, 1939.

should be used to amortize the cost of the undertaking. Moreover, alleged tax-free competition from the federal government was bitterly criticized, and the charge was frequently made that the tax loss proved that government hydro-electric projects could not produce electricity more cheaply than private companies if the rates provided for the same tax payment as private companies.[24]

The T.V.A. and its proponents denied these criticisms and declared that power rates were sufficient to cover all taxes previously paid by the private companies. The recoverable taxes on the distribution facilities amounted to approximately 58 per cent of the total loss, and their recovery was entirely a matter of state legislative action.

Moreover, the wholesale rates at which the Authority sells to retail distribution systems contain a margin of approximately 15 per cent above all costs of production and transmission. This margin is sufficient to cover the taxes formerly levied on facilities acquired directly by the T.V.A., and the issue is simply whether or not it should be so used. The T.V.A. program is multi-purpose, and the cost is allocated not only to power production but also to navigation and flood control. Of the three, power alone returns revenues, and the 15 per cent loading in wholesale rates over all costs of production might be used as payments to the states in lieu of taxes or returned to the national treasury to liquidate the costs allocated to navigation and flood control, as well as to power. The T.V.A. act, as originally written, provided that this margin be returned to the national treasury. However, navigation and flood control are matters of national concern, and traditionally have been paid for by the national government alone.[25] Therefore, continued the proponents of T.V.A., it is proper that the margin in the wholesale rates should amortize only the full cost of power production and replace the taxes formerly levied on property acquired by the T.V.A. The costs of navigation and flood control, however, should not be saddled on electrical consumers of T.V.A. power.[26]

To aid in the dislocation of taxes that were lost, the T.V.A. was already paying the states of Tennessee and Alabama five per cent of its gross power revenues, in accordance with Section 13 of the Tennessee Valley Authority Act of 1933.[27] The amount paid in each state was based on the sale of power generated therein, and the percentage might be changed by the board of directors with the approval of the president as often as once

[24] *Chicago Herald-Tribune*, Apr. 2 and Aug. 2, 1939; and *Journal of Commerce* (Chicago), Apr. 6, 1939.

[25] Letter of H. A. Morgan, chairman of the T.V.A. board of directors, to the *New York Times*, Dec. 20, 1939, and testimony of W. C. Fitts, Jr., T.V.A. counsel, at the hearing on the Independent Offices Appropriation Bill for 1941, *op. cit.*, pp. 1705 ff. [26] *Louisville Courier-Journal*, Jan. 4, 1940.

[27] May 18, 1933, Chap. 32, Sec. 13, 48 Stat. 66.

every five years. It was estimated that as T.V.A.'s revenues increased, the act would yield enough to replace virtually all the loss incurred directly from the T.V.A.'s acquisition.

The act was inadequate in many respects, however, although alleviating the situation. For one thing, the maximum production of T.V.A. was not expected for some years, and while the hardship on the governments was temporary, it was nevertheless severe. School budgets and governmental services in some counties depended vitally on existing revenues. Another defect was the application of the act only to Tennessee and Alabama, the two states foreseen as affected by the T.V.A. program. Fannin county, Georgia, one of the worst sufferers, could thus obtain no redress; nor could various other counties in Mississippi, North Carolina, and Kentucky, either already losing taxes or expecting to do so. Even as between Tennessee and Alabama, moreover, the act worked obvious discrimination. The provision that the amount of taxes replaced should be based on the place of generation of power favored Alabama, as most of the power was generated in that state. The tax displacement, on the other hand, was arising mainly in Tennessee, where the Authority had acquired extensive generating and transmission facilities formerly paying taxes. Still another defect of the original act was its failure to assure any relief for the counties, the real sufferers. The payments were made to the states, which kept the entire amounts, while the counties, much less able to replace the losses, received no assistance. Finally, the five per cent applied only to proceeds from the sale of power generated at hydro-electric plants and did not include power produced at steam plants.

The Norris-Sparkman Amendment and Its Operation. After lengthy study of the situation, the Authority decided that it should assume the responsibility of replacing the ad valorem property tax losses allocable to itself by payments in lieu of taxes to the states and counties. Accordingly, it supported in Congress the Norris-Sparkman amendment to the Tennessee Valley Authority Act,[28] introduced to extend the scope and amount of payments formerly authorized. The amendment provided that payments in lieu of taxes should be made to the states and counties affected by the power operations of the T.V.A. The payments, based on the gross proceeds from the sale of power, would begin at 10 per cent for the fiscal year 1941 and decrease as follows: 9 per cent, 1942; 8 per cent, 1943; 7½ per cent, 1944; 7 per cent, 1945; 6½ per cent, 1946; 6 per cent, 1947; 5½ per cent, 1948; and 5 per cent for 1949 and each succeeding year. As the rate of payment declined, it was expected that the increased production would yield greater revenues, so that the payments made would be substantially the same. One-half of the payment would be apportioned among the states

[28] Sec. 39 of the Emergency Relief Appropriation Act for 1941 (Public Resolution No. 88, 76th Cong., 3rd Sess., Chap. 432).

on the basis of the amount of power consumed in each state, and the other half on the basis of the value of the power property located in each state. The minimum annual payment to the states and counties would not be less than the state and county ad valorem property taxes formerly levied on the power properties of T.V.A., and on the portion of the reservoir lands allocable to the production of power.

According to T.V.A. estimates, made after several months of operation of the amendment,[29] payments by the Authority during the fiscal year 1941 in lieu of taxes will exceed by $417,000 all former property taxes levied by the state and local governments on the utility properties and reservoir lands purchased by the Authority. The former losses by states and the amount of T.V.A. payments are given in the following table:

	Property Taxes Formerly Collected on Power Properties and Reservoir Land Purchased by T.V.A.	*Estimated Payments by the Authority in Lieu of Taxes for the Fiscal Year 1941*
Alabama	$ 81,000	$ 356,000
Georgia	65,000	65,000
Kentucky	8,000	35,000
Mississippi	51,000	50,000
North Carolina	6,000	38,000
Tennessee	917,000	1,001,000
Total	$1,128,000	$1,545,000

Furthermore, the sums collected by the distribution systems for the purpose of replacing state and local property taxes will exceed by $232,000 such taxes formerly levied on the properties purchased by the systems, shown by the following table:

	State and Local Property Taxes Formerly Levied on Property Purchased by the Distribution Systems	*Amount Collected by the Distribution Systems to Replace These Taxes*
Alabama	$ 9,000	$ 111,000
Georgia	6,000	2,000
Kentucky	—	2,000
Mississippi	34,000	77,000
North Carolina	—	2,000
Tennessee	1,454,000	1,541,000
Total	$1,503,000	$1,735,000

The total payments in lieu of taxes by the T.V.A. and the distribution systems on all property acquired, including the reservoir lands, are estimated to be $3,280,000. This is an excess of $649,000 over all former property taxes, estimated at $2,631,000, and is almost enough to replace the

[29] News Release, Sept. 17, 1940.

$700,000 of state business taxes allocable to the public power program. The payments by the T.V.A. under the Norris-Sparkman amendment and by the distribution systems are thus estimated to replace virtually all the taxes formerly collected by the local and state governments, and the tax dislocation controversy has been settled. Attention is now focused on the large financial benefits from the T.V.A. program in the form of an estimated $9,000,000 annual saving by the Valley in lower power rates and $4,000,000 annual net profit by the distribution systems, and also on navigation, flood control, soil conservation, and defense activities that will benefit the region and the nation.

Very significant as a result of the tax problem is the interest concentrated on several greatly needed governmental reforms. One of the factors largely responsible for the situation is the existence of many poor, sparsely-populated counties parasitically living on power properties that happened to be located within their borders. Since the problem arose, three commendable acts have been passed by the Tennessee legislature authorizing and facilitating the consolidation of counties.[30] Although no consolidation has been effected to date, considerable interest has been aroused which may yet stimulate action to modernize the organization and functions of county government.[31] One function shown by the situation to be sorely needed is the use of adequate budgeting, accounting, and reporting practices by counties.[32] Tennessee is among the states that would benefit from such a reform, and bills to establish sound county fiscal policies will be introduced in the 1941 session of the legislature. Designed especially for counties receiving in-lieu-of-tax payments from the T.V.A., the provisions are expected to extend to other counties also. The tax replacement controversy may thus be instrumental in promoting governmental reform in Tennessee and other states in the Valley.

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[30] *Public Acts of the State of Tennessee*, 1939, Chaps. 224, 225, and 226.

[31] See M. H. Satterfield, "Tennessee Counties Stand Pat," *National Municipal Review*, Vol. 29, p. 26 (Jan., 1940).

[32] See W. H. Read, *Accounting Manual for the Counties of Tennessee* (University of Tennessee, July, 1938), p. 8.

International Law and the Totalitarian States. International law has assumed that states are independent and free to vary their national cultures and institutions at will. It permits them to organize their domestic economy, culture, opinion, and polity in a totalitarian way if they see fit. In fact, however, international law developed among states which had many cultural characteristics in common. It was originally the law governing the relations of the Christian states of Europe, all with a tradition reaching back into medieval Christendom and classical antiquity, and united by practices of maritime trade, and by commercial, religious, and educational institutions. The potential totalitarianism which the law allowed was not in fact realized because of moral and practical inhibitions. Governments wished to observe the universal *mores*, and even if they had not, they lacked the technical, administrative, and political means which modern despots have utilized so effectively to override these *mores* in the interests of concentrated power.

As the family of nations expanded, the principles implied by the European traditions and institutions were accepted by the non-Christian states overseas. What vigor international law has had, in spite of the theoretical inconsistency between the ideas of sovereignty and of subjection to law, has been due to the practical difficulties in the way of despotism and to the common elements in the culture of the nations and in the ethics and interests of their peoples. States with certain common needs and traditions naturally thought of similar solutions to emerging problems and agreement often resulted, either tacitly by custom or expressly by convention. Supported by these standards recognized by all civilized men, international law was able to subject the exercise of national sovereignty to important limitations.

Limitations arose from the need to protect agencies of international intercourse if peaceful relations were to exist at all. Immunities of diplomatic officers, of consuls, and of public vessels have been of long standing.

The needs of agriculture, industry, and trade tended to support the customary separation of the peasants and merchants from the nobility, the army, and the public officials. Customary rights of foreign merchant vessels on the high seas and in ports, and conventional rights of transit in the maritime belt, in international straits, rivers, and canals, and in the air; conventional rules for facilitating easy communications by post, telegraph, and radio; privileges of consular establishment and conventional rights of foreign merchants, resident in the country, have developed in international law for the protection and encouragement of international trade in time of peace.

The Christian doctrine of the autonomy of the individual soul, strength-

ened by the Reformation, by the seventeenth century doctrine of natural rights, and by modern humanitarianism, imposed practical limitations upon the absoluteness of territorial sovereignty. The state, according to these principles, ought to respect the fundamental religious, property, and personal rights, both of its subjects and of resident aliens. The institution of diplomatic protection and numerous arbitrations in the nineteenth century gave a legal status to these principles. Freedom of opinion and of cultural expression gradually came to be accepted as rights, and in the nineteenth and twentieth centuries international conventions began to require respect for these rights, especially in the case of minorities and of aborigines. Principles of humanitarian intervention to compel states to treat their own subjects with a minimum standard of decency were supported by many precedents of the nineteenth century.

These basic concepts of civilization, separating commerce from government and insisting on some respect for the individual, had an influence in moderating the practices of war beyond the limitations imposed by conceptions of chivalry and military honor accepted in the Middle Ages. Limitations were imposed on the confiscation of neutral and enemy property at sea. Enemy property and credits in the national domain were to be respected. Property in occupied areas was to be respected so far as military necessity permitted. Enemy civilians were to be spared. Some humane consideration was due even to the armed forces of the enemy. Furthermore, the medieval tradition of distinguishing between just and unjust war, and the modern distinction between aggression and defense, have been reflected in conventional rules and institutions limiting resort to war.

The totalitarian state constitutes the extreme development of the ideas of political sovereignty and of cultural nationalism. It is an evolution of the theory of territorial sovereignty toward the complete exclusion of the historic, religious, economic, cultural, and humanitarian inhibitions which had, in practice and in law, held sovereignty in check.

The totalitarian state is in principle unlimited in its power over its domain, its officials, its nationals, and its culture. It has realized its principles in practice by a planned economy organizing resources for power rather than for welfare, a scapegoat polity supporting internal solidarity by external enmities, a sovereign legislation subordinating individual rights to "reason of state," and a militarized administration controlling action by efficient organization of armed force. Its policy has been to exalt the national culture to a position of moral superiority over other nations and peoples. As a consequence of these principles, practices, and policies, the totalitarian state's respect for the territorial boundaries, cultural claims, and economic interests of other states cannot rest on moral principle, but only upon the military power of those states to defend themselves. In

principle, each totalitarian state rules the world and everything in it. According to John W. Burgess, quoting German ideas on the subject in 1890: "From the standpoint of the idea, the state is mankind viewed as an organized unit. . . . The territorial basis of the state is the world, and the principle of unity is humanity."[1] The totalitarian state is the effort to realize this idea in the shortest possible time by the ruthless use of political, economic, and military power.

While the theorists of Nazi, Fascist, and Communist international law have not adhered strictly to this logical development of their political gospel, the trend of their writings has been in this direction. They have sought to free sovereignty of legal restrictions, although they have moderated the logic of their ideology by considerations of the political expediency of the moment.[2]

I propose to consider, not the theory, but certain practical influences of totalitarianism upon international law, especially upon (1) sovereign immunities, (2) commercial rights, (3) individual rights, and (4) rights with respect to war.

(1) The rise of totalitarianism has had the effect of limiting the immunities from national jurisdiction of foreign public agencies and properties within the domain. Liberal states which continue to distinguish between business and governmental functions have not been inclined to grant immunity to ships *engaged in commerce* or to commercial agents, even though such ships or agencies belonged to foreign governments. The wide extension of public ownership of merchant shipping not only among the totalitarian but among other states had made the issue important. Furthermore, the tendency of totalitarian governments to utilize consulates and embassies as centers of subversive propaganda has rendered them objects of suspicion, and there has been a tendency to relax the customary immunities of these institutions in order to permit the receiving state adequately to investigate and to protect its interests. It is likely that international law will develop a conception of *legitimate public functions*, and will grant the customary immunities only to agencies of foreign governments confining their activity to such functions.[3]

[1] J. W. Burgess, *Political Science and Constitutional Law* (Boston, 1890), p. 50.

[2] Laurence Preuss, "National Socialist Conceptions of International Law," in this REVIEW, Vol. 29, pp. 595 ff.; John Herz, "The National Socialist Doctrine of International Law," *Political Science Quarterly*, Vol. 54, pp. 536 ff.; Virginia Gott, "National Socialist Theory of International Law," *American Journal of International Law*, Vol. 32, pp. 704 ff.; John N. Hazard, "Cleansing Soviet International Law of Anti-Marxist Theories," *ibid.*, 294 ff.; T. A. Taracouzio, *The Soviet Union and International Law* (New York, 1935).

[3] See Brussels Convention on Immunities of State-owned Ships, 1926; Harvard Research in International Law, "Competence of Courts in Regard to Foreign States," *American Journal of International Law*, Vol. 36 (Supplement), pp. 560–569.

(2) By controlling foreign trade and credits and reducing commercial relations to a bilateral, governmental basis, totalitarian states have tended to render obsolete the conventional law concerning most-favored-nation treatment, and have destroyed the normal confidence of states that their merchants could have access to foreign sources of raw materials and to foreign markets. These practices have also tended to destroy the security of international loans and of property abroad, even in time of peace. The consequence of this obliteration of general confidence in the world trading system has been to stimulate efforts of all states to make the national economy self-sufficient. If the totalitarian states have not sufficient resources to achieve this end within their existing territory, this policy has induced efforts to expand their frontiers. Totalitarian economy has thus destroyed not only the rule of law, protecting international commerce, but also the rule of law protecting frontiers, and has reduced international relations to a jungle condition.[4]

(3) Totalitarianism has emancipated itself from all respect for the individual. He is a cog in the wheel of state, an instrument of state policy with no inherent rights of his own. The consequence of this has been a widespread elimination of the rule of law for protection of the property and civil rights of the resident alien and expulsion of nationals of unwanted race or opinion, creating a problem of refugees and statelessness. Totalitarian governments have imposed national censorships and controls upon all agencies of international communication, thus cutting off their nationals from all contact abroad, except such as they deem desirable. The consequence of this cultural isolation has been the creation of a fanatical national sentiment within, and a morbid suspicion and hatred of foreign nations, except those for which the totalitarian government desires friendship. No higher considerations of humanity qualify the exercise of totalitarian sovereignty. Each state is a wolf to the others. While this conception of international relations was implicit in the Machiavellian view of the state out of which modern international law grew, Christian, humanitarian, and international ideas and institutions have in the past prevented realization of the concept and have given a reality to international law, perhaps without sufficient comprehension of the inadequate philosophical and political foundations upon which that law rested. Totalitarianism, however, has unmasked the inadequacy of these foundations and has swept away the customary privileges of aliens, minorities, aborigines, and citizens when confronted by the rapacity of the totalitarian sovereign.[5]

(4) In the law respecting war, the influence of totalitarianism has been

[4] Lionel Robbins, *The Economic Causes of War* (London, 1939), pp. 98 ff.

[5] E. F. M. Durbin and John Bowlby, *Personal Aggressiveness and War* (New York, 1939), pp. 126 ff.

most important. The movement against war, which developed particularly in the nineteenth century, though its roots go back as far as the Christian tradition, has been repudiated. To the totalitarian state, war is an instrument of policy to be used whenever the government deems it expedient. Furthermore, totalitarian war, militarizing the whole economy of the nation for its prosecution, cannot respect civilians or private property. They are important elements of the enemy's war efforts, and modern technology permits attack upon them from the air and on the sea. The *temperamenta belli* which Grotius urged as expedient and humane qualifications of total war in the seventeenth century are, in the practice of modern belligerents, no longer sanctioned by either expediency or morality. The laws of war and neutrality have little place in totalitarian war except as propaganda devices to permit the aggressor to conquer his victims one at a time. Totalitarian war bombs the enemy's civilians indiscriminately and destroys without warning all shipping, enemy and neutral, proceeding to enemy ports. It even regards property in occupied areas as subject to confiscation, and does not hesitate to drive out populations of conquered territory, giving their homes and lands to nationals of the conqueror. Familiar distinctions of customary international law between combatant and non-combatant, between enemy and neutral individuals, have been swept away. Under these conditions, there is no chance of negotiating peace. Totalitarian war is aimed at the annihilation of the enemy, not at a new adjustment of international relations.[6]

In spite of these tendencies promoted by totalitarian governments and by the logical application of the totalitarian ideology, there is a possibility that in practice a stable balance of power might in time be achieved even by totalitarian governments. Such a condition might lead even totalitarian states to accept, on grounds of expediency if not of principle, much of traditional international law. It is to be recalled that Soviet totalitarianism began with principles of world revolution; but during the comparative peace of the 1920's the Soviet government accommodated its practice to its necessities and accepted much of international law. In fact, in its numerous non-aggression pacts and its acceptance of the doctrine of collective security upon entry into the League of Nations in 1934, it went further than other states in its willingness to confine its exercise of sovereignty to its existing territory.[7] In principle, however, totalitarianism and international law are incompatible, and the purely expedient basis of the Soviet's policy was manifested in its attack on Finland and other countries when the opportunity offered.

Effective law is impossible without some basic standards held in com-

[6] Hans Speier and Alfred Kahler (eds.), *War in Our Time* (New York, 1939).

[7] Malbone W. Graham, "The Peace Policy of the Soviet Union," in Samuel N. Harper (ed.), *The Soviet Union and World Problems* (Chicago, 1935), pp. 125 ff.

mon by a substantial majority of those subject to it. Totalitarianism both in principle and practice rejects all standards above the legislation of the totalitarian government. Governments professing such a doctrine cannot be reliable subjects of law, and for this reason international law has always been a weak law. When governments practice such professions, international law disappears altogether.

The relation of totalitarianism to international law is therefore one of incompatibility. If totalitarianism triumphs in the present war, international law will suffer a severe decline from which it may not recover. The situation may be similar to that at the time of Caesar and Augustus, when Roman arms triumphed over the international law which existed in the Hellenistic period. The modern Caesars have not veiled their intentions—Mussolini avows his inspiration from ancient Rome, as Hitler avows his inspiration from the medieval Empire. Both assume a hierarchical order of the world as a whole, and repudiate the concept of equal states subject to law.

There can be no doubt that national sovereignty has overridden itself. The economic and cultural requirements of the world demand that sovereign states be subordinated to a world order as the feudal principalities of four centuries ago were subordinated to the national orders. The issue is whether they shall be subordinated by conquest and empire, in which local autonomies and individual rights are denied in principle, or whether they shall be subordinated by the logical development of the international law of the past century. Such a development would proceed toward a federal order in which inherent rights of individuals, of nations, of regions, and of the world as a whole will be coördinated by appropriate legal and political institutions, assuring respect for all. Those who believe in democracy, in nationality, and in international law cannot hope to turn back to the exaggerated conceptions of national sovereignty. They must confront the imperial design of totalitarianism with a positive program for rehabilitating the standards of individual and national rights, for establishing institutions to secure and develop these standards, and for supporting these institutions by a sustained and general sentiment of world citizenship.

QUINCY WRIGHT.

University of Chicago.

NEWS AND NOTES

PERSONAL AND MISCELLANEOUS

Compiled by the Managing Editor

The thirty-seventh annual meeting of the American Political Science Association will be held in New York City, December 28–31, with headquarters at the Pennsylvania Hotel. (The American Society for Public Administration will meet in the same hotel, and its program will start on December 30). Inasmuch as the work of the Program Committee (Professor Francis G. Wilson, chairman) was begun at the close of the meeting last year, the program is now well developed, although changes are to be expected owing to the peculiarly fluid situation in both domestic and international affairs. As in recent years, a large number of round tables and section meetings are scheduled. The increase seems necessary because of the large attendance at the meetings, and because of the diversity of interest of members of the Association.

Distinguished speakers for three luncheons and one dinner meeting have been invited. Because some of these have been unwilling to commit themselves at the present time, it seems inadvisable to give their names. The program of the Association will open on Sunday evening, December 28, with a joint general session with the American Society for Public Administration devoted to the problems of war financing, with speakers selected from the national administration and the Treasury Department. In general, the emphasis in the program falls in the field of national defense, and the relation of domestic problems to the issues of international affairs. Round tables and sections have been scheduled to hold sessions simultaneously during the meeting periods.

The following joint round tables with the Public Administration Society, with the chairmen listed, will meet on Monday and Tuesday mornings: (1) National Defense Administration, Arthur N. Holcombe (Harvard University); (2) The State Legislature, Roger V. Shumate (University of Nebraska); (3) New Problems of Local Government, William S. Carpenter (Princeton University); (4) Personnel Administration, J. Alton Burdine (University of Texas); (5) Problems of Government in New York City, Wallace S. Sayre (Civil Service Commission, New York City); (6) Judicial Administration, J. A. C. Grant (University of California). In addition, there will be two joint section meetings: War Financing, Simeon E. Leland (University of Chicago) and Rowland A. Egger (Director of the Budget, Virginia), and Municipal Government, Joseph D. McGoldrick (Comptroller, New York City).

Section meetings sponsored by the Association include the following: (1) Government and Business, James W. Fesler (University of North Carolina); (2) Public Law, Charles Aikin (University of California); (3)

Political Parties, Claudius O. Johnson (Washington State College); (4) The Pacific Area, George H. Blakeslee (Clark University); (5) Latin America, Ben M. Cherrington (University of Denver); (6) American Foreign Policy, Walter R. Sharp (College of the City of New York); (7) Trends in European Government, Robert K. Gooch (University of Virginia); (8) International Law, Lawrence Preuss (University of Michigan); (9) The Grand Strategy of National Defense, Harold H. Sprout (Princeton University); (10) Citizen Organization, Roy V. Peel (Indiana University); (11) Political Theory, Thomas I. Cook (University of Washington); (12) The Bill of Rights, Everett S. Brown (University of Michigan; and (13) Archives as Material for Research in Political Science, Arnold Brecht (New School for Social Research). Additional section meetings are planned jointly with the Association of American Geographers and possibly the American Association for Labor Legislation.

Another series of round table meetings should be noted, as follows: (1) Congress and the Formation of Policy, George B. Galloway (National Economic and Social Planning Association); (2) Civil-Military Relations in a Democracy, Pendleton Herring (Harvard University); (3) Problems of Teaching in Political Science, John A. Vieg (Iowa State College); (4) The Organization of Peace, Clyde Eagleton (New York University); (5) Public Opinion, Charles W. Smith, Jr. (University of Alabama). The National Council for the Social Studies will hold a breakfast meeting on December 30, and will participate in a round table following on Problems of Teaching in Political Science.

Among the breakfast meetings should be noted that of the women members of the Association under the chairmanship of Edna R. Fluegel (College of St. Catherine), a meeting of editors of social science journals under the chairmanship of Robert J. Harris (Louisiana State University), meetings of the Pennsylvania and Midwest groups of political scientists, and a meeting of those interested in the Latin American field under the chairmanship of Russell H. Fitzgibbon (University of California at Los Angeles).

At the University of Illinois, Professor John M. Mathews has been appointed chairman of the department of political science, for a period of two years, in succession to Professor John A. Fairlie, retiring this month with the title of professor emeritus.

Miss Margaret Ball will be on leave from Wellesley College during the coming year while holding a Social Science Research Council fellowship for work in Washington and Latin America.

On June 18, Dr. Ernest S. Griffith, director of the Legislative Reference Service of the Library of Congress, addressed a joint group meeting of

the Special Libraries Association at Hartford, Connecticut, on the work of the Service over which he presides.

Dr. Maxim von Brevern, of the University of Washington, has been granted leave of absence for the autumn quarter to pursue special work under the auspices of the Institute for Advanced Studies at Princeton.

At the University of Tennessee, Dr. Kenneth O. Warner, formerly of the University of Arkansas, has been appointed professor of political science and chairman of the department.

Dr. Edwin D. Dickinson, dean of the school of jurisprudence at the University of California, has been appointed special consultant to the U. S. Department of Justice on international law and related matters.

After a period of service as assistant to the Secretary of Agriculture, specializing in war and defense coördination in the Department and other federal agencies, Dr. James L. McCamy will return to Bennington College in September.

At Kent State University, Miss Mona Fletcher has been promoted to an associate professorship.

At Swarthmore College, Dr. Vernon A. O'Rourke, of Union College, has been appointed to an assistant professorship and Dr. Arnaud B. Leavelle, of the University of California at Los Angeles, to an instructorship. Professor J. Roland Pennock has been advanced to an associate professorship; and Dr. Bryce Wood, of Columbia University, will conduct a seminar in the international field throughout the next academic year.

Professor Clyde Eagleton, of New York University, delivered the commencement address in June at Austin College, Texas, and was awarded the honorary degree of doctor of laws.

The Citadel, Charleston, S.C., has created a separate department of political science and has appointed Dr. James K. Coleman professor in charge.

At Western Reserve University, Dr. Wilbur W. White has been promoted to a professorship in the department of political science and appointed dean of the graduate school. Dr. Eleanor F. Dolan, of New York University, has been given an appointment as assistant professor in the same department.

The Social Science Research Council has awarded Professor Oliver P. Field, of Indiana University, a grant-in-aid for a study of business, administration, and local government in a national defense "boom town," and Miss Marion D. Irish, of Florida State College for Women, a grant for a study of the Southern labor movement in 1930–40.

On May 14, Professor Joseph R. Starr, of the University of Minnesota,

appeared as a representative of the American Association of University Professors at a hearing before a subcommittee of the House Judiciary Committee in Washington, and argued for the exemption of teachers from the Hatch Political Activities Act. His prepared statement, used on this occasion, will be published in an early issue of the *Bulletin* of the American Association of University Professors.

A Regional Institute on Employment Security was held May 12–17 at the Center for Continuation Study at the University of Minnesota. Professor Lloyd M. Short was chairman of the faculty planning committee, and both he and Professor A. N. Christensen were members of the staff of the Institute.

The chair which Professor George S. C. Benson, of the University of Michigan, will assume at Northwestern University next month is one in public administration. During the summer, Professor Benson is serving as consultant to the personnel division of the Office of Emergency Management.

Professor F. A. Hermens, of the University of Notre Dame, is spending a portion of the summer in Mexico, where he is engaged upon a study of Latin American constitutionalism.

Professor J. R. Hayden, of the University of Michigan, is teaching at the University of Washington during the current summer quarter.

Dr. Hersch Lauterpacht, Whewell professor at Cambridge University, is to be Mary Whiton Calkins Visiting Professor at Wellesley College next year. He will give lectures in international politics and international law.

Professor L. V. Howard, of the University of Maryland, taught at the University of Alabama during the recent summer session.

At the University of Minnesota, Drs. Joseph R. Starr and Asher N. Christensen have been advanced to the rank of associate professor.

Professor Lennox A. Mills, of the University of Minnesota, taught in the recent summer session at the University of California at Berkeley.

Professor John W. Manning, who, after a year with the National Institute of Public Affairs in Washington, expected to return this fall to the University of Kentucky, has been called into extended active duty in the personnel research section of the personnel bureau of the Adjutant General's Office, with permanent station in Washington.

Dr. Victor Jones, of the bureau of public administration at the University of California, has been made assistant professor of political science at the Illinois Institute of Technology.

Professor Leonard D. White, of the University of Chicago, taught at Stanford University during the 1941 summer session.

Mrs. Frances Reinhold Fussell, on leave from Swarthmore College, is serving in Washington as an assistant to Professor William Y. Elliott on government stockpiling of the strategic and critical raw materials necessary for the war effort, and on shipping priorities to insure the effective execution of the stockpile and public purchase program.

Messrs. Elliott P. Roberts and Richard Bigger, of the University of Wisconsin, and Robert S. Avery, of Northwestern University, have been appointed personnel assistants on the staff of the Tennessee Valley Authority, and Mr. Paul Haaga, of Harvard University, has joined the Authority's employment division.

Mr. William H. Young, who completed his graduate work at the University of Wisconsin during the summer, has been appointed instructor in political science at the University of Pennsylvania.

At the University of Michigan, the following persons have been added to the staff as instructors: Dr. John A. Perkins, Dr. William I. Cargo, and Dr. Samuel D. Marble.

Dr. Hans J. Morgenthau, of the University of Kansas City, has received a grant from the Penrose Fund to study the relationship between the political philosophy of liberalism and foreign policy, with special reference to the basic ideas of pre- and post-World War foreign policy.

Dr. Bernard Brodie has concluded his Carnegie Corporation fellowship at the Institute for Advanced Study and has been appointed instructor in political science at Dartmouth College, where he will offer a new course on "Modern War Strategy and National Policies."

Miss Eleanor Frances Dean, of New York University, has been appointed assistant professor of political science and dean at Flora Stone Mather College, Western Reserve University.

North Park College, Chicago, recently announced the appointment of Mr. Walter J. Moberg, instructor in political science, as dean of the junior college and the academy.

The Library of Congress has assembled in an alcove in the main reading room a collection of two hundred books on the subject of democracy. Other works of the kind will be added as published.

Persons recently receiving their doctor's degree at the University of Chicago have been appointed as follows: William T. R. Fox, instructor at Princeton University; Maure Goldschmidt, instructor at the College of the City of New York; David B. Truman, instructor at Cornell University; and David M. Levitan, assistant personnel officer, N.Y.A. for Illinois.

Dr. Marshall E. Dimock, Department of Justice, who has been on leave from the University of Chicago for the past three years, has resigned from that institution, effective July 1, and will continue with his administrative work in Washington. At the end of the summer, he will lecture for two weeks at Stanford University and the University of California at Los Angeles on the relation between government and business, as a part of the Short Course of the American Institute of Public Relations. During the fall he will give a series of lectures at the School of Law of New York University on the general subject of administrative law aspects of immigration and naturalization.

Dr. Blaine F. Moore, since 1922 assistant manager of the finance department of the U. S. Chamber of Commerce, died in Washington on June 15. During an earlier teaching career, he served as instructor in government at the University of Michigan in 1909–10, assistant professor of political science at George Washington University in 1910–13, professor of political science and chairman of the department at the University of Kansas in 1915–21, and professor of political science at the American University in 1921–22.

Dr. A. S. White, for many years head of the department of government and citizenship at the University of New Mexico, died on December 28, 1940. Professor Thomas C. Donnelly has been appointed to succeed him as head of the department. Mr. V. E. Kleven, instructor in government, has been appointed assistant professor, and Dr. Frank A. Jonas, assistant professor of political science at the University of Southern California, has been brought to the department as an assistant professor, beginning September, 1941. Professor J. Lloyd Mecham, of the University of Texas, was a visiting professor in the department during the summer of 1941.

The Connecticut Valley Political Science Association held a meeting at the University of New Hampshire on May 10. Among other features was an address on "The Progress of Interstate Coöperation in New England" by Mr. Wayne D. Heydecker, regional representative, Council of State Governments.

A Public Affairs Institute has been inaugurated in Kansas City, Missouri, under the sponsorship of the civic research bureau of the Citizens Council and the directorship of Professor Shepherd L. Witman, of the University of Omaha. The Institute is directed toward a city-wide program of citizen discussion of civic affairs.

Western Illinois State Teachers College at Macomb held a state summer educational conference, June 24–28, on citizenship. Speakers included Dr. Hugh M. Cole, of the University of Chicago, Dean Donald DuShane, Jr., of Lawrence College, and Professor Franklin L. Burdette, of Butler

University, executive secretary of the National Foundation for Education in American Citizenship.

The program of the fourth Institute of Public Affairs held at the University of New Hampshire on July 8 was devoted to the general subject of governmental personnel in New Hampshire. Under the general chairmanship of Professor Thorsten V. Kalijarvi, one session considered the elective officials and another the appointed officials.

The program of the Institute of Public Affairs held at the University of Virginia from June 23 to July 4 provided for two series of conferences—one on "National Affairs: The Preservation of American Democracy," and the other on "Foreign Affairs: The Obligations of the United States as a World Power." Discussion leaders included Messrs. Ernest K. Lindley, Rexford G. Tugwell, and Brooks Emeny, and Colonel Herman Buekema.

In an effort to create sounder public opinion in New England on questions of Latin American trade and politics as they affect hemisphere defense, Connecticut College held a five-day institute on June 23–28 at which the speakers were Dr. Dana G. Munro, director of the School of Public and International Affairs at Princeton University; Dr. A. Randle Elliott, of the Foreign Policy Association; Dr. Enrique de Lozada of Bolivia, professor of political science at Williams College; Mr. William S. Culbertson, former United States ambassador to Chile; and Dr. Preston E. James, professor of South American geography at the University of Michigan.

The sixth annual Institute of Government was in session at the University of Washington between June 23 and June 28. Dr. Donald Webster, of the University of Washington bureau of governmental research, arranged the program. Among the participants were Mr. Walter H. Blucher, director of the American Society of Planning Officials, and Mr. Albert Lepawsky, director of the Federation of Tax Administrators.

The Graduate Library School of the University of Chicago sponsored an Institute on the Implications of Print, Radio, and Film for Democratic Government, August 4–9. Among the participants were Professor Harold F. Gosnell, of the University of Chicago; Dr. Harold D. Lasswell, specialist in communication research; and Mr. Harold L. Elsten, propaganda analyst, Nationality Section, Immigration and Naturalization Service, Department of Justice.

With "The Post-War World in the Light of the First Great Experiment" as its general theme, an Institute of World Organization will be held on the campus of the American University, Washington, during the

period September 1–13. A morning lecture each day, in nearly all cases by a person long associated with the work of the League of Nations, the International Labor Organization, or the World Court, will be followed by a round table discussion in the afternoon or evening. The undertaking is announced as "a first step toward establishing a permanent center in Washington for the study and dissemination of the principles and method of world organization."

A Conference on the Conservation of Democracy was held at Stanford University on June 26, 27, and 28, in connection with the semi-centennial celebration of the University, with Stanford University, the National Municipal League, the League of California Cities, and the California League of Women Voters participating. Topics discussed in round tables included personnel management, taxation, planning, education for citizenship, citizens' organizations, pressure groups, local governments, and democratic ideals. The principal evening sessions were addressed by ex-President Herbert Hoover and President Clarence A. Dykstra. Other addresses were given by Governor Arthur B. Langlie, Dr. William B. Munro, Dr. Edgar E. Robinson, and Dr. Rudolf Holsti.

The sixth semi-annual meeting of the Metropolitan Political Science Association will be held at Brooklyn College on Friday evening, October 17. President Harry D. Gideonse, of Brooklyn College, will welcome the guests and the principal address will be given by Miss Frieda S. Miller, industrial commissioner of the state of New York, who will speak on "Administration of the Labor Law." Professor George A. Graham, of Princeton University, will preside. Professor Belle Zeller, of Brooklyn College, is in charge of arrangements.

Under the direction of Professor Edward Mead Earle, a number of scholars are engaged at the Institute for Advanced Study in research on various aspects of American foreign policy and national security. Studies published or in progress include *Sea Power in the Machine Age*, by Bernard Brodie; *Changing Conditions of American Security*, by Professor Earle; *Roots of American Foreign Policy*, by Felix Gilbert; *Military Economy and Social Structure*, by Albert T. Lauterbach; *Total War, with Special Reference to Its Psychological Aspects*, by Stefan Th. Possony; *Sea Power*, by Herbert Rosinski; *Military Discipline and Authority*, by Alfred Vagts; and *American Isolationism*, by Albert K. Weinberg. In addition, the group is collaborating with the department of public law at Columbia University on a syllabus and critical bibliography on *War and Defense*, edited by Richard P. Stebbins, and is experimenting with a book of readings on the same subject.

DOCTORAL DISSERTATIONS IN POLITICAL SCIENCE

IN PREPARATION AT AMERICAN UNIVERSITIES[1]

COMPILED BY LLEWELLYN PFANKUCHEN[2]
University of Wisconsin

POLITICAL PHILOSOPHY AND PSYCHOLOGY

Byron Robert Abernethy; A.B., State Teachers College, 1933; A.M., North Dakota, 1938. The Concept of Liberty in American Industrial Relations. *Iowa.*

Winston Ashley; A.M., Chicago, 1938. The Theory of Natural Slavery According to Aristotle and St. Thomas Aquinas. *Notre Dame.*

William M. Barr; Litt.B., Rutgers, 1928; A.M., Columbia, 1936. The Philosophy of Woodrow Wilson. *Columbia.*

Norman W. Beck; A.B., Chicago, 1923. Machiavelli as a Political Inventor. *Chicago.*

Dorothy Borg; A.M., Columbia, 1931. American Public Opinion in China. *Columbia.*

Julia Helen Chen; A.B., Hwa Nan College, China, 1928; A.M., American, 1937. The History and the Divisions of the Chinese Press in the United States. *American.*

Jack G. Day; B.S., Ohio State; LL.B. *ibid.;* A.M., *ibid.* The Influence of Roscoe Pound on American Jurisprudence. *Ohio State.*

Karl Wolfgang Deutsch; Dr. of Law and Political Science, Prague, 1938. The Economic Factor in Nationalism: A Technique of Enquiry Applied to Some Successors of Central Europe. *Harvard.*

[1] Similar lists have been printed in the REVIEW as follows: V, 456 (1911); VI, 464 (1912); VII, 689 (1931); VIII, 488 (1914); XIV, 155 (1920); XVI, 497 (1922); XIX, 171 (1925); XX, 660 (1926); XXI, 645 (1927); XXII, 736 (1928); XXIII, 795 (1929); XXIV, 799 (1930); XXV, 798 (1931); XXVI, 769 (1932); XXVII, 680 (1933); XXVIII, 766 (1934); XXIX, 713 (1935); XXX, 811 (1936); XXXI, 772 (1937); XXXII, 796 (1938); XXXIII, 732 (1939); XXXIV, 767 (1940).

Items which appeared in the August, 1940, list are in general classified under the same headings in the present list, and new items have been assimilated to the 1940 classification as far as possible. In cases where classification of an item has been suggested by the institution concerned, the suggestion has been followed. It is believed that each item is listed under one classification only.

The lists printed in the REVIEW are based on information from departments giving graduate instruction in political science. Often dissertations are in progress in departments of economics, history, sociology, etc., which overlap or supplement dissertations in preparation in political science. Attention is called especially to the following lists: "Check List of Current Researches in Public Administration Reported to the Committee on Public Administration, Social Science Research Council" (mimeographed, most recent edition, December, 1940); "Doctoral Dissertations in Political Economy in Progress in American Colleges and Universities," in the *American Economic Review;* "List of Doctoral Dissertations in History Now in Progress at American Universities," Division of Historical Research, Carnegie Institution of Washington; and "Higher Degrees in Sociology," in the *American Journal of Sociology.* Usually one list is published each year. These are in addition to the "List of American Doctoral Dissertations Printed in 1938," the most recent of an annual series published by the Library of Congress.

Names starred are carried over from the 1940 list, no more recent data having been received.

[2] With the assistance of Miss Emily Blenis, hereby gratefully acknowledged.

Emmet E. Dorsey; A.B., Oberlin, 1927; A.M., Columbia, 1932. A Critique of Negro Political Leadership: A Series of Social Biographies. *Columbia.*

Harold L. Elstien; A.B., Syracuse, 1934. Democratic Tolerance of Anti-Democratic Organization. *Chicago.*

J. Eldon Fields; A.B., Kansas, 1934. Neo-Marxian Theories of War and Peace. *Stanford.*

Gisbert Henry Flanz; Free School of Political Science, Prague, 1936; Dipl. Sc. Pol., *ibid.*, 1939. The Doctrine of the Separation of Powers; An Historical and Analytical Study in Political Theory and Comparative Constitutional Law. *Princeton.*

Helen V. Hammarberg; A.B., California, 1936; A.M., Columbia, 1938. The Theory of an American Legal and Political System. *California.*

Martin Joseph Hillenbrand; A.B., Dayton, 1937; A.M., Columbia, 1938. An Analysis of the Concept of Obligation. *Columbia.*

Byron Marshall Holmes; A.B., U. C. L. A., 1934; A.M., California, 1939. Political Nativism. *Southern California.*

Wilfred Horiuchi; A.B., U. C. L. A., 1933. An Analysis of Interventionist and Isolationist Propaganda in the United States, 1939–41. *Southern California.*

Robert D. Howard; A.B., Harvard, 1924; A.M., *ibid.*, 1928. Theories of Conservatism and of Constitutional Democracy in State Constitutional Conventions. *Harvard.*

Paul Kelso; A.B. in Ed., Ball State Teachers' College, 1933; A.M., Wisconsin, 1938. Factors Influencing Attitudes toward Municipal Government in Selected Ohio Cities. *Ohio State.*

Edgar Kemler; A.B., Johns Hopkins, 1936. The Deflation of American Ideals: A Study of the Response of Traditional Progressivism to the Conditions of the Fascist Era. *Harvard.*

Eugene E. Koch; A.B., Pittsburgh, 1932; A.M., *ibid.*, 1935. Political Philosophy of John Selden. *Pittsburgh.*

Thomas B. Larson; A.B., Nebraska, 1937; A.M., Chicago, 1938. A History of Ideas Concerning Legislatures and Representation. *Columbia.*

Luther J. Lee, Jr.; A.B., Pomona, 1933. Political Significance of Reconstruction for American Nationalism after the Civil War; A Study in American Political Thought. *California.*

Alfred Max; A.B., Delaware, 1933. A Critical Analysis of the Interview Technique in Public Opinion Polls. *American.*

Milton R. Merrill; B.S., Utah State College, 1925; A.M., Columbia, 1932. The Public Career of Reed Smoot. *Columbia.*

Charles R. Nixon; A.B., Oberlin, 1939. The "Social Myth" in English and American Political Theory. *Cornell.*

Louis T. Olom; A.B., Chicago, 1937. The Study of Political Leadership. *Chicago.*

William Broderick Prendergast; A.B., Notre Dame, 1937; A.M., *ibid.*, 1938; Lière Licence en Sciences Politiques et Sociales, University of Louvain (Belgium), 1939. American Ideas on the Limits of the Authority of Government. *Chicago.*

James H. Sheldon; A.B., Marietta, 1927; A.M., Harvard, 1928. Factors Involved in Determining Public Attitudes toward International Policies. *Harvard.*

Leo W. Shields; A.B., Chicago, 1935. The History and Meaning of the Term "Social Justice." *Notre Dame.*

James Benjamin Stalvey; A.B., Duke, 1930; A.M., *ibid.*, 1931. The Political Philosophy of Daniel De Leon; A Study in Early American Socialism. *Illinois.*

Robert L. Stern; A.B., New York State College for Teachers, 1935. Study of Predictions of Newspaper Columnists in the Newspapers of 1934. *Syracuse.*

Johan C. TeVelde; A.B., Calvin, 1934; A.M., Iowa, 1935. The Political Science of John Dewey. *Chicago.*

Audrey G. Townsend; A.B., Southwestern, 1932; A.M., Radcliffe, 1938. The Fabian Socialists as Political Liberals. *Radcliffe.*

**John Higgins Williams;* A.B., Washington and Lee, 1924; A.M., *ibid.*, 1928. The Rise and Decline of the Compact Theory in the United States. *North Carolina.*

GOVERNMENT AND POLITICS OF THE UNITED STATES AND ITS DEPENDENCIES

Wesley Adams; A.B., Northwestern, 1935; A.M., *ibid.*, 1936. Some Phases of American Neutrality Legislation. *Northwestern.*

Paul H. Anderson; A.B., Notre Dame, 1938; A.M., *ibid.*, 1939. The Attitude of the American Leftists toward the Russian Revolution and the Bolshevik Government from 1917 to 1923. *Notre Dame.*

Totton James Anderson; A.B., California, 1930; A.M., *ibid.*, 1931. Aspects of Dynamics of American Foreign Policy, 1935–1940. *Southern California.*

Benjamin Baker; B.S., C. C. N. Y., 1935; A.M., Columbia, 1940. The Packers and Stockyards Act. *Columbia.*

Robert D. Baum; A.B., Williams, 1934; A.M., Columbia, 1935. The Federal Power Commission and the States. *Columbia.*

Hillman M. Bishop; A.B., Columbia, 1926. Rhode Island and the Federal Constitution. *Columbia.*

Helen R. Brooks; A.B., Radcliffe, 1934; Ed.M., Harvard, 1936. The Apportionment Rule of the United States Civil Service. *Radcliffe.*

Norman R. Buchan; A.B., Michigan, 1922; A.M., Indiana, 1930; LL.B., *ibid.*, 1931. Reporting Politics in Ohio Newspapers. *Ohio State.*

Lynton K. Caldwell; Ph.B., Chicago, 1934; A.M., Harvard, 1938. Josiah Quincy: Public Servant. *Chicago.*

Lawrence H. Chamberlain; B.S., Idaho, 1930; A.M., *ibid.*, 1932. Sources of Recent Major Legislation. *Columbia.*

Asher N. Christensen; A.B., Minnesota, 1924. A Study of the Legislative Settlement of Contested Election Cases. *Minnesota.*

Wesley C. Clark; A.B., Marietta, 1930; A.M., Pennsylvania, 1938. The Effects of Economic Changes on a President's Popularity. *Pennsylvania.*

Marvin Downey; A.B., Virginia, 1931; A.M., *ibid.*, 1934. The Committee on Rules of the United States House of Representatives. *Chicago.*

LeRoy Craig Ferguson; A.B., Miami, 1937; A.M., Ohio State, 1939. The Quakers in American Politics. *Ohio State.*

Robert L. Fisher; A.B., Stanford, 1931; A.M., *ibid.*, 1933. The Administration of Minor Parties in the United States. *Columbia.*

Hilton P. Goss; A.B., Harvard, 1926. The Presidential Campaign of 1912. *California.*

Maurice Otto Graff; A.B., Illinois State Normal, 1929; A.M., Iowa, 1936. The Political Aspects of the Diversion of Water from the Great Lakes. *Iowa.*

Wayne Clayton Grover; A.B., Utah, 1935; A.M., American, 1937. Some Aspects of the Civil Governance of American Military Forces, with Special Reference to the Army. *American.*

Rufus G. Hall, Jr.; A.B., Texas, 1933; A.M., *ibid.*, 1935. American Imperialism in the Caribbean during the Taft-Knox Administration. *Harvard.*

Earl T. Hanson; Ed.B., Southern Illinois State Teachers College, 1933; A.M., Illinois, 1937. Special Groups in Congress. *Illinois.*

Wiley Edward Hodges; B.S., Roanoke, 1926; A.M., Duke, 1930. The Trend of Laissez-faire in Virginia from the Colonial Period to 1832. *Duke.*

Robert A. Horn; A.B., Ohio Wesleyan, 1937. The Influence of Committee Organization and Procedure upon Congress. *Princeton.*

Howard K. Hyde; A.B., Fletcher, 1934; A.M., Chicago, 1935. The American Telephone and Telegraph Company; A Study in Large-Scale Organization. *Chicago.*

Thomas P. Jenkin; A.B., Lawrence College, 1937; A.M., Michigan, 1939. Organized Groups and Governmental Positivism in the United States since 1929. *Michigan.*

Gerald I. Jordan; A.B., Marshall, 1936. Politics and the Supreme Court, 1860–1880. *U. C. L. A.*

Alexander F. Kiefer; A.B., Columbia, 1937; A.M., *ibid.*, 1938. Financial and Trade Measures as Implements in American Foreign Policy. *Columbia.*

Donald R. Larson; A.B., Augustana (S.D.), 1936; A.M., Texas, 1938. The Origin, Development, and Use of the Veto Power of the President of the United States, with a Comprehensive Digest of All Veto Messages. *Texas.*

Jack Franklin Leach; A.B., California, 1937. The Law, Theory, and Practical Politics of National Conscription in the United States, with Comparisons Drawn from National Experience with Conscription Elsewhere. *California.*

Jerome Machlin; B.S.S., C. C. N. Y., 1935. A Study in Protest Politics. *Syracuse.*

Edwin M. Martin; A.B., Northwestern, 1929. Influence of Organized Economic Groups on Federal Tax and Tariff Legislation from 1921 to 1933. *Northwestern.*

Willard C. Matthias; A.B., Iowa, 1936; A.M., Minnesota, 1938. The Formation of Labor Policy under the New Deal. *Harvard.*

Sister M. Annunciata Merrick, R.S.M.; A.B., Catholic University, 1920; A.M., Notre Dame, 1925. Theodore Roosevelt and Practical Democracy, with Particular Reference to the Anthracite Coal Strike of 1902. *Notre Dame.*

Walden Moore; A.B., Harvard, 1922. The American Navy Bill of 1916. *Columbia.*

Paul D. Mulkey; B.Ed., Southern Illinois Normal, 1935; A.M., Illinois, 1936. Congressional Investigation of Subversive Activities. *Illinois.*

Wallace J. Parks; A.B., Williams, 1932; LL.B., George Washington, 1937. Federal Import Control. *Columbia.*

A. Edward Patmos; A.B., New York University, 1935; A.M., *ibid.*, 1936. Some Recent Attempts of Non-Political Organizations to Influence Federal Legislation. *New York University.*

Howard Rae Penniman; A.B., Louisiana State, 1936; A.M., *ibid.*, 1938. The Socialist Party in Action: National Campaign of 1940. *Minnesota.*

William Schuhle, Jr.; A.B., Washington and Lee, 1935; A.M., 1936. Social Security as a Responsibility of Government. *Johns Hopkins.*

Liba Harold Studley; B.S., C. C. N. Y., 1921; LL.B., Fordham, 1925; A.M., Columbia, 1929. Progress of Aviation Legislation in the United States. *Columbia.*

Norman Wengert; A.B., Wisconsin, 1938; A.M., Fletcher, 1939. The Trucking Industry and Public Policy. *Wisconsin.*

Albert C. F. Westphal; A.B., Columbia, 1929. The House of Representatives and American Foreign Policy. *Columbia.*

CONSTITUTIONAL AND ADMINISTRATIVE LAW IN THE UNITED STATES

Ernest F. Acheson; A.B., Washington and Jefferson, 1934; A.M., 1935. The National Labor Relations Act; A Study in Law and Administration. *Johns Hopkins.*

Paul Beckett; A.B., Monmouth College, 1935; A.M., Illinois, 1938. Judicial Review of Legislative Acts in California since 1879. *U. C. L. A.*

Ross C. Beiler; A.B., Allegheny College, 1937; A.M., Iowa, 1940. The Commerce Clause and State Regulation, 1888–1910. *Iowa.*

Eleanor Bontecou; A.B., Bryn Mawr, 1913; J.D., New York University, 1917. The Rule-Making Power and Federal Legislation. *Radcliffe.*

Alvah J. Cagle; A.B., Baylor, 1922; A.M., Iowa, 1926; LL.B., Baylor, 1931. Judicial Construction and Reconstruction of the Due Process Clause. *Texas.*

Willard B. Cowles; A.B., Columbia, 1928. Constitutional Law and Treaties: Property Interference and Due Process of Law. *Columbia.*

Richard H. Ernst; A.B., Minnesota, 1933; A.M., Princeton, 1935; LL.B., Yale, 1938. The Administrative Adjudicative Technique as Used by the National Labor Relations Board. *Princeton.*

Delavan P. Evans; A.B., Occidental, 1933. The Use of the Concept of Inherent Powers by the Supreme Court of the United States. *California.*

**Edmund Cody Gass;* A.B., Carson-Newman, 1927; A.M., Tennessee, 1931. The Eleventh Amendment. *North Carolina.*

Spencer R. Gervin; B.S., State Teachers College, Johnson City, Tennessee, 1936; A.M., Duke, 1941. The Concept of Full Faith and Credit for Divorce. *Duke.*

William L. Grossman; A.B., Harvard, 1927; A.M., *ibid.*, 1928; LL.B., *ibid.*, 1932. The Property Clause of the Federal Constitution. *Columbia.*

Harold Kenneth Hossom; A.B., Stanford, 1936; M.F.S., Southern California, 1938. Freedom of Speech in California, 1930–1940. *Princeton.*

Louis W. Koenig; A.B., Bard, 1938; A.M., Columbia, 1940. Delegated Legislative Power—A Study in Presidential and Congressional Relationships. *Columbia.*

Samuel J. Konefsky; A.B., Brooklyn, 1937; A.M., Columbia, 1938. Legal Philosophy of Mr. Justice Stone. *Columbia.*

William L. LaRue; A.B., Northwestern, 1933. Patents and Copyrights in American Public Law. *Princeton.*

**Charles O. Lerche, Jr.;* A.B., Syracuse, 1937; A.M., Fletcher, 1938. The Constitutional Guarantee of Republican Form of Government in the United States. *North Carolina.*

Aaron Lewittes; B.S.S., C. C. N. Y., 1932; LL.B., Columbia, 1935. Judicial Review and the Problem of an Independent Administrative System. *Columbia.*

George Lipsky; A.B., Washington (Seattle), 1938. Constitutional Powers of States Affecting Interstate Commerce. *California.*

Rebecca Matthews McBride; A.B., Maine, 1930; A.M., American, 1932. Influence of the Supreme Court on State Legislation. *American.*

Vera McLaren; A.B., Southern California, 1924; A.M., Northwestern, 1929. The Doctrine of Public Interest. *Northwestern.*

Joseph McLean; A.B., Lafayette, 1937. Mr. Justice Day. *New York University.*

John Marshall Martin, Jr.; A.B., Tennessee, 1939. The United States Court of Customs and Patent Appeals. *Johns Hopkins.*

Maurice Meredith; A.B., Illinois, 1936; A.M., *ibid.*, 1938. Recent Developments in the Public Law of National-Local Relations. *Minnesota.*

Donald D. Morgan; A.B., Cornell, 1933; Ed.M., Harvard, 1938; A.M., *ibid.*, 1939. The Constitutional Thought of Justice William Johnson. *Harvard.*

Frederic D. Ogden; A.B., Tusculum, 1938. Governmental Regulation of Foods, Drugs, and Cosmetics. *Johns Hopkins.*

Leo C. Reithmayer; A.B., Texas Technological College, 1934; A.M., *ibid.*, 1936. The Development of the Texas Constitution by Means of Formal Amendment. *Iowa.*

John A. Schroth; A.B., Princeton, 1932; A.M., *ibid.*, 1934. Dual Federalism in American Constitutional Law. *Princeton.*

Theodore H. Skinner; A.B., Hamilton, 1919; A.M., Columbia, 1929. The Relation of Administrative Discretion in the United States to Constitutional Rights. *New York University.*

Ceph Leroy Stephens; B.S., Ohio State, 1929; A.M., *ibid.*, 1930. The Writ of Mandamus as a Means of Administrative Control in Ohio. *Ohio State.*

Owen Scott Stratton; A.B., Reed, 1938. State Taxation and the Commerce Clause. *Stanford.*

Albert L. Sturm; A.B., Hampden-Sidney, 1933; A.M., Duke, 1940. Emergency as a Justification for the Exercise of Executive Power during the Roosevelt Administration. *Duke.*

George H. Watson; A.B., Miami, 1936; A.M., Illinois, 1937. The Concept of the Legislative Court. *Chicago.*

Harry O. Wilson; A.B., Harvard, 1931; A.M., *ibid.*, 1932. The Trial Examiner in the National Labor Relations Board; A Study of Quasi-Judicial Development in an Administrative Body. *Northwestern.*

AMERICAN STATE AND LOCAL GOVERNMENT AND POLITICS

Lorentz H. Adolfson; A.B., Wabash, 1933. The County Clerk in Wisconsin. *Wisconsin.*

Bernard L. Barnard; A.B., Kansas, 1928; A.M., *ibid.*, 1932. Bicameralism in Kansas. *American.*

**F. J. Barnes, II;* A.B., William and Mary, 1927; A.M., *ibid.*, 1927. The City in Virginia. *North Carolina.*

Harald Bergerson; A.B., Puget Sound, 1931. Public Employee Relations in Seattle. *Chicago.*

Walter Thompson Bogart; A.B., U. C. L. A. (1930); A.M., Stanford, 1931. Jurisdictions, Functions, and Geography of Government in Los Angeles County. *Stanford.*

R. Jean Brownlee; B.S. Education, Philadelphia Normal School, 1934; A.M., Pennsylvania, 1936. Income Taxation in Delaware. *Pennsylvania.*

Eugene C. Brownson; A.B., Washington, 1938; A.M., *ibid.*, 1940. The Administration of County Functions in the City of St. Louis. *Washington (St. Louis).*

Oscar Buckvar; B.S., C. C. N. Y., 1923; A.M., Columbia, 1925. Pressure Groups before the New York Board of Estimate and Apportionment. *Columbia.*

Donald A. Crawford; A.B., Stanford, 1937. Administration of Labor Legislation in California. *Stanford.*

Frederick William Dumschott; A.B., Washington College, 1927; A.M., Virginia, 1931. State Administrative Control of Cities in Maryland. *American.*

John Paul Duncan; A.B., Butler, 1932; A.M., Indiana, 1938. Government and Administration in the City of Indianapolis. *Indiana.*

J. Kirk Eads; A.B., Columbia, 1936; A.M., *ibid.*, 1937. Theory and Practice of State Control over the Local Unit. *Indiana.*

Samuel J. Eldersveld; A.B., Calvin College, 1938; A.M., Michigan, 1939. A Study of Urban Electoral Trends in the State of Michigan, 1930–1940. *Michigan.*

Emery Fast; A.B., Colorado, 1927; A.M., *ibid.*, 1929. A History of the California Criminal Syndicalism Law. *Stanford.*

Mona Fletcher; B.S. in Ed., Kent State University, 1921; A.M., Chicago, 1924. Bicameralism in Ohio. *Ohio State.*

Lynwood M. Holland; A.B., Emory, 1932; A.M., *ibid.*, 1933. The Direct Primary in Georgia. *Illinois.*

**Melvin C. Hughes;* A.B., Georgia, 1933; A.M., *ibid.*, 1935. County Government in Georgia. *North Carolina.*

Laulette L. Irvin; A.B., Goucher, 1935; A.M., Columbia, 1935. The Suffrage Movement in Illinois. *Chicago.*

Emil Frank Jarz; A.B., Chicago, 1938. Legal and Administrative Aspects of Intermunicipal Agreements in the United States. *Chicago.*

John Paul Jones; B.A.J., Florida, 1937; A.M., Wisconsin, 1939. History of the Republican Party in Illinois since 1912. *Illinois.*

Orville M. Knutsen; A.B., California, 1931. Special Assessments in the Urban Areas of California. *California.*

James M. Leath; A.B., Austin, 1931; A.M., Southern Methodist, 1932. Delegated Legislation in North Carolina. *Duke.*

Carl A. McCandless; B.S. in Ed., Central Missouri State Teachers College, 1930; A.M., Missouri, 1932. Problems in State Personnel Administration, with Special Reference to the State of Iowa. *Iowa.*

William Bolland Maddox; A.B., Ohio Wesleyan, 1923; A.M., Cincinnati, 1924. Municipal Home Rule in Ohio. *Michigan.*

Albert B. Martin; A.B., Muskingum, 1928; A.M., Pittsburgh, 1938. Financial Powers and Administration in Alleghany County. *Pittsburgh.*

Boyd Archer Martin; A.B., Idaho, 1936; A.M., Stanford, 1937. The Direct Primary in Idaho. *Stanford.*

Charles E. Martz; A.B., 1915; A.M., 1927. Ohio Politics from 1876 to 1900. *Harvard.*

Molly Milman; A.B., Hunter, 1935; A.M., Columbia, 1938. The Fusion Movement in New York City. *Columbia.*

Malcolm Charles Moos; A.B., Minnesota, 1937; A.M., *ibid.*, 1938. The Selection and Tenure of State Judges. *U. C. L. A.*

William F. Nowlin; A.B., Howard, 1919; A.M., Ohio State, 1930. Legislative Investigating Committees in Ohio, 1919–1934. *Ohio State.*

James Kimbrough Owen; A.B., Louisiana State, 1937. Local Government in Louisiana. *Princeton.*

Ira Polley; A.B., Indiana, 1938. The Politics and Administration of State Labor Relations Acts. *Minnesota.*

Clifford Rader; A.B., Eastern State Teachers College (Kentucky), 1934; A.M., Kentucky, 1937. Problems of Kentucky County Government. *Kentucky.*

Glenn W. Rainey; A.B., Emory, 1928; A.M., *ibid.*, 1929. The Negro in Georgia Politics since Reconstruction. *Northwestern.*

Maurice M. Ramsey; A.B., Wayne, 1928; *A.*M., *ibid.*, 1933. Non-Partisan Government in Detroit, 1918–1941. *Michigan.*

Miriam Roher; A.B., Barnard College, 1936; A.M., Northwestern, 1937. Public Relations Reporting by City Governments; Nature and Effectiveness. *California.*

Geddes William Rutherford; A.B., Missouri, 1913; A.M., Harvard, 1916. Metropolitan Problems of the District of Columbia. *American.*

William S. Shepherd; A.B., Iowa, 1937; A.M., *ibid.*, 1939. A Study of the Legal Status and Functions of the Iowa Interim Committee. *Iowa.*

George Snowden; A.B., West Virginia State College, 1932; A.M., New York University, 1935. Political Participation of Negroes in Border States. *Indiana.*

Thomas Noel Stern; A.B., Swarthmore, 1934; A.M., Pennsylvania, 1940. Community Forests in Pennsylvania. *Pennsylvania.*

Harvey R. Teel; B.Ed., Southern Illinois Normal, 1932; A.M., Illinois, 1933. County Boards in Illinois. *Illinois.*

Ralph Temple; A.B., C. C. N. Y., 1927; J. D., New York University, 1930; A.M., *ibid.*, 1939. The Shared Tax Device and Its Effects on State-Local Relations. *New York University.*

Morgan Thomas; A.B., Lafayette, 1938; A.M., Harvard, 1940. The Practice of

Administrative Legislation in the S. E. C., the Department of Agriculture, and the Department of Interior. *Harvard.*

Kuo Ying Tsai; A.B., Yenching University, Peiping, China, 1935; A.M., Princeton, 1937. Alcoholic Beverage Regulation in New Jersey. *Princeton.*

Albert L. Turner; A.B., Western Reserve, 1923; LL.B., *ibid.*, 1927; A.M., Michigan, 1933. The Attorney General as Legal Adviser to the Executive. *Michigan.*

John Robert Verby; B.S. Ed., Northeast Missouri State Teachers' College, 1928; A.M. Missouri, 1932. Legislative History of the Administrative County Offices in Missouri. *Washington* (St. Louis).

Harold Wesley Ward; The Virginia Alcoholic Beverage Control Board. *Virginia.*

Ellsworth E. Weaver; B.S. Utah, 1937; M.S. *ibid.* 1938. State Supervision of Municipal Administration in Utah Cities of the First and Second Classes. *New York University.*

Leon H. Weaver; B.S., Illinois, 1936; A.M., *ibid.*, 1938. Grants-in-aid for Education in Illinois, with Special Reference to Consolidation of Local Districts. *Illinois.*

Lawrence H. Wendrich; A.B., Newark, 1937; A.M., New York University, 1939. Citizen Organization and Action in Selected Areas. *Indiana.*

Julian R. Wilheim; A.B., Columbia, 1929; A.M., New York University, 1938; LL.B., Columbia, 1938. The Cost of the Administration of the Courts of the City of New York. *Columbia.*

Samuel E. Wood; A.B., Fresno State College, 1931; A.M., California, 1933. A Case Study of the California State Commission of Immigration and Housing. *California.*

Baskin Wright; A.B., Alabama, 1924; A.M., Wisconsin, 1929. The Impeachment of Governors in the United States. *Duke.*

Robert Martin Young; A.B., Washington, 1930; A.M., *ibid.*, 1932. The Office of Governor in Missouri. *Washington* (St. Louis).

William H. Young; A.B., Pittsburgh, 1933, A. M., *ibid.*, 1937. Research in Wisconsin Local Government. *Wisconsin.*

Frederick L. Zimmermann; A.B., Columbia, 1928; A.M., *ibid.*, 1929. The Council of State Governments. *Columbia.*

PUBLIC ADMINISTRATION IN THE UNITED STATES

Robert W. Anderson; A.B., Cornell, 1935; A.M., *ibid.*, 1938. Intergovernmental Relationships in Federal Relief Administration. *Princeton.*

**Jesse H. Bankston;* A.B., Louisiana State, 1933; A.M., *ibid.*, 1936. The Administration of the Fair Labor Standards Act. *North Carolina.*

Dana Mills Barbour; A.B., Washington, 1929; A.M., *ibid.*, 1930. The Recent Growth of the President's Administrative Power through Financial Control. *Stanford.*

Russell William Barthell; A.B., Washington, 1930; A.M., *ibid.*, 1931. Recruiting Practices in Federal, State, and Local Government, *Chicago.*

Kenneth Charles Beede; A.B., George Washington, 1927; M.B.A., Harvard, 1929. Urban Housing: Quantitative Measures of Demand and Supply in Local Housing Markets. *American.*

Frank P. Bourgin; A.B., Minnesota, 1930; A.M., Claremont College, 1932. History of Regional Planning in the United States. *Chicago.*

Vincent J. Browne; A.B., Howard, 1938. The Budget as an Instrumentality of Democratic Control. *Harvard.*

William James Bruce; A.B., Oregon, 1931; A.M., *ibid.*, 1936. Some Problems in the Administration of the Hoover Dam. *Stanford.*

Frederic Bundy; A.B. and B.S. in Education, Kent State University, Ohio, 1935; A.M., Ohio State, 1938. Fact Finding Processes in the Department of Agriculture. *Syracuse.*

Howard A. Calkins; A.B., Ohio Wesleyan, 1927; A.M., Wisconsin, 1928. A Survey of Personnel Practices in Selected Texas Administrative Agencies. *Wisconsin.*

Jean Ferguson Charters; A.B., Wisconsin, 1935; A.M., Columbia, 1936. State Merit System Councils. *Chicago.*

Dale D. Clark; A.B., Utah, 1935; A.M., Columbia, 1937. Techniques of Farmer Consultation in the Agricultural Adjustment Administration. *Columbia.*

William Joseph Collins; A.B., St. Ambrose, 1925; A.M. Catholic University, 1929. The Administration of Old Age Assistance in Iowa. *Iowa.*

Lawrence Cramer; A.B., Wisconsin, 1923; A.M., Columbia, 1926. The Virgin Islands as a Problem in Colonial Administration. *Columbia.*

John Aubrey Davis; A.B., Williams, 1933; A.M., Wisconsin, 1934. Regional Organization under the Social Security Board, with Special Reference to Region Two. *Columbia.*

Edward Dawson; A.B., California, 1937. Licensing, Enforcement, and Rule-Making in the Federal Regulation of Narcotics; also Federal-State Relationships Therein. *Syracuse.*

James R. Donoghue; A.B., Pittsburgh, 1938. Some Aspects of Federal Resources Planning, 1933–1939. *Pittsburgh.*

Thomas Lewis Driscoll; B. of Ed. State Teachers College, 1935; A.M., Iowa, 1939. Rule-Making Authority of Administrative Agencies in Iowa. *Iowa.*

George S. Duggar; A.B., Wisconsin, 1936; A.M., *ibid.*, 1937. The Politics of Planning and Financing Public Works within New York City, 1933–40. *Harvard.*

Kermit Eby; A.B., Manchester, 1927. Chicago Teachers Union. *Chicago.*

Benjamin S. Faber; B.S., New York University, 1930; A.M., *ibid.*, 1931. The Relationship between Tax Administration and Legislation. *New York University.*

Ralph Fjelstad; A.B., Concordia, 1937. Some Phases of Public Administration in Agriculture. *Northwestern.*

Guy Fox; A.B., Texas Christian University, 1929; A.M., Southern Methodist University, 1930. Regulation of Banking by the Comptroller of the Currency. *Texas.*

Nathan Grundstein; A.B., Ohio State, 1935; M.A., *ibid.*, 1936. Judicial Restraints on New York State Civil Service Procedures. *Syracuse.*

Charles M. Hardin; A.B., Wyoming, 1930; A.M. Colorado, 1938. The United States Soil Conservation Program, with Special Reference to the State Soil Conservation District Laws. *Harvard.*

Lashley G. Harvey; A.B., William Jewell, 1925; A.M. Stanford, 1930. Controls Relating to Highway Administration in Massachusetts. *Harvard.*

Rolf N. B. Haugen; A.B., Minnesota, 1937. The Effect of Federal-State-Local Financial Relationships upon Local Government Units in Massachusetts. *Harvard.*

David Horton; A.B., Washington, 1935; A.M., *ibid.*, 1936. Federal-State Relationships in the Administration of Unemployment Compensation. *Harvard.*

Robert DuBois Hubbard; A.B., Oberlin, 1932; A.M., *ibid.*, 1933. Top Career Servants of the United States Department of Agriculture. *American.*

Ethan A. Hurd; B.S., Minnesota, 1936. Standards for the Guidance of Police in Handling Strikes. *Syracuse.*

Hugh Edward Kelso; A.B., Iowa, 1938; A.M., *ibid.*, 1939. Administration of the Federal Trade Acts, with Special Reference to Advertising. *Iowa.*

Theodore Kitos; A.B., Syracuse, 1937. Third Degree Practices in American Police Administration as Determinable from Court Records, 1925–1940. *Syracuse.*

John H. Klingenfeld; A.B., Amherst, 1913. The Walsh-Healey Act; A Case Study in Public Administration. *American.*

Avery Leiserson; A.B., Illinois, 1934. Interest Representation in Administrative Agencies. *Chicago.*

Clem C. Linnenberg; A.B., Texas, 1933; A.M., *ibid.*, 1933. Problems and Procedures in Federal Civilian Procurement. *Yale.*

Fordyce W. Luikart; A.B., Ohio Wesleyan, 1933. Federal and State Regulation of Gambling. *Syracuse.*

Oscar M. Lurie; A.B., Harvard, 1935. A Critical Study of the Procedures and Techniques of the United States Employment Service. *Harvard.*

Marjorie McGillicuddy; A.B., Wellesley, 1922; A.M., Columbia, 1934. Public Personnel and Public Opinion. *Columbia.*

Robert Arnold McGrath; A.B., Fort Hays Kansas State College, 1938; A.M., Iowa, 1939. Home Owners' Loan Corporation—A Study in Public Administration. *Iowa.*

Edwin B. McPheron; A.B., Indiana, 1938. Criteria for Granting Aid to Local Governmental Units. *Indiana.*

Maurice Lyndon Mannen; A.B., Oklahoma, 1927; A.M., *ibid.*, 1938. Federal and State Coöperation in Crime Control. *George Washington.*

Carl M. Marcy; A.B., Williamette, 1934; A.M., Columbia, 1936; LL.B., *ibid.*, 1939. Presidential Commissions. *Columbia.*

Miriam Margolies; A.B., Barnard, 1940. Military Men as Civilian Administrators—U. S. *Columbia.*

Evelyn Armisted Maurer; A.B., Northwestern, 1927; A.M., *ibid.*, 1928. Governmental Regulation of the Interstate Distribution of Public Utility Products. *Northwestern.*

John Francis Miller; A.B., Illinois, 1929; A.M., *ibid.*, 1930. The Administrative Management of Federal Regulatory Agencies. *Columbia.*

Roy Miller; A.B., Hamline, 1927; A.M., Minnesota, 1928. The Organization and Law of Public Personnel Administration in Minnesota. *Minnesota.*

Charles E. Mills; A.B., Illinois, 1929; A.M., Wisconsin, 1933. The C. W. A. as Unemployment Relief in Wisconsin. *Wisconsin.*

J. Ellsworth Missall; A.B., Columbia, 1931; A.M., *ibid.*, 1932. Moreland Commission. *Columbia.*

William A. Mitchell; B.S., Clemson, 1938; A.M., North Carolina, 1940. State Administrative Powers over Natural Resources. *Duke.*

Carl Henry Monsees; A.B., Roanoke, 1922; A.M., Pennsylvania, 1925. The Federal Government's Procedure in Planning, Constructing, and Operating Communities for Resettlement Purposes. *American.*

Mary V. Montgomery; A.B., California, 1933; A.M., Mills College, 1936. Necessary Methods and Principles of Organization of Developing and Conserving the Natural Resources in Administrative Areas. *California.*

Phillip Monypenny; A.B., Washington University, 1936; A.M., *ibid.*, 1937. Governmental Personnel in Missouri. *Minnesota.*

Frederick W. Muller; A.B., Columbia, 1937. Administration and Policy-Making in Public Rural Electrification. *Columbia.*

August W. Nagel; A.B., Chicago, 1939; A.M., Columbia, 1941. Surplus Commodities Corporation—Intergovernmental Administrative Aspects. *Columbia.*

Lewis M. Nixon; A.B., Ohio Wesleyan, 1934. Measurement of Morale in Government Service. *Syracuse.*

Edward E. Palmer; A.B., Middlebury, 1939. The Vermont Public Service Commission; Rule-making and Enforcement Processes. *Syracuse.*

Ellen Sorge Parks; A.B., Wisconsin, 1937. The Representative Advisory Committee

as a Governing Device; Case Studies of Selected Advisory Committees of the United States Department of Agriculture. *Wisconsin.*

Norman M. Pearson; A.B., Chicago, 1937. Legislative and Administrative Control of Financial Policy with Respect to Selected Units of the Federal Government. *Chicago.*

Frank Piskor; A.B., Middlebury, 1937. Administrative Relationships of the New York State Civil Service Commission to Local Governmental Agencies. *Syracuse.*

Leo C. Quinn; A.B., New York University, 1930; A.M., *ibid.*, 1937. The Real Estate Bureau of the Board of Estimate of the City of New York; An Administrative Analysis of Its Rôle in the Control of the City's Real Property. *New York University.*

Landon G. Rockwell; A.B., Dartmouth, 1935; A.M., Princeton, 1938. Development of National Planning. *Princeton.*

Arthur W. Roehm; A.B., Baldwin-Wallace, 1929. Secretary Hoover as a Departmental Administrator. *Harvard.*

George F. Rohrlich; Dr. Jr., University of Vienna, 1937; Diploma, Consular Academy of Vienna, 1938. Problems of a Federal Equalization and Re-insurance Fund in Unemployment Compensation. *Harvard.*

Albert H. Rosenthal; A.B., Denver, 1936; A.M., Minnesota, 1938. The Use of Administrative Areas and Regional Offices by the Social Security Board and Other Federal Agencies. *Harvard.*

Richard L. Seggel; A.B., Princeton, 1936; A.M., *ibid.*, 1938. Labor Administration in New Jersey. *Princeton.*

Herbert A. Simon; A.B., Chicago, 1936. The Theory of Administrative Decisions. *Chicago.*

Theodore W. Taylor; A.B., Arizona, 1935; A.M., Syracuse, 1938. Washington-Field Office Administrative Relations. *Harvard.*

Charles A. H. Thomson; A.B., Pomona, 1934; A.M., Claremont, 1935. The Rôle of Congress in New Deal Fiscal Policy. *Harvard.*

Phillip T. Thorson; A.B., Minnesota, 1937; A.M., American, 1938. The Financing of Public Housing, with Particular Regard to Governmental Policy. *New York University.*

Thomas Keith Tindale; A.B., Stanford, 1933. Regional Coördination of Field Services in the Federal Government. *Chicago.*

Stuart H. Van Dyke; A.B., Indiana, 1935. Techniques of Censorship. *Syracuse.*

Paul Van Riper, Jr., A.B., DePauw, 1938. History of Civil Service Reform of the Federal Government. *Chicago.*

Clifford D. Waldo; A.B., Nebraska State Teachers College, 1935; A.M., Nebraska, 1937. The Idea of Expertise in the Democratic Tradition. *Yale.*

William A. Waldron, II; A.B., Union, 1935. The New York State Budget Controversy of 1939. *Harvard.*

G. Edward Walther; A.B., U. C. L. A., 1933. Radio and the Public Interest. *Yale.*

J. Donald Watson: A.B., Reed, 1926; M.B.A., Michigan, 1931. Public Accounting in Indiana. *Northwestern.*

Robert Lyle Webster; A.B., North Dakota, 1926; M.S., Columbia, 1929. Public Relations in the Agricultural Adjustment Administration. *American.*

York Y. Willbern; A.B., Southwest Texas State Teachers College, 1931; A.M., Texas, 1938. Administrative Control of Oil Production in Texas. *Texas*

Henry Newton Williams; B.S., State Teachers College, Murfreesboro, Tennessee; A.M., Tennessee, 1938. Administration in Illinois under the Civil Administrative Code, 1917–1937. *Chicago.*

Glenn Wiltsey; A.B., Nebraska Wesleyan, 1930; A.M., Nebraska, 1931. Administrative Standards. *Chicago.*

Anthony W. Woodmansee; A.B., Reed, 1928; A.M., Oregon, 1930. The Radio Commission. *Harvard.*

Norman M. Yoder; A.B., Baldwin-Wallace, 1938; A.M., Ohio State, 1939. The Application of Civil Service to the Field of Public Safety. *Ohio State.*

Shao-Chi Yuan; A.B., Catholic University, China, 1935; A.M., Harvard, 1939. Personnel Management in Municipal Police Administration, with Special Reference to Boston, Chicago, Detroit, and Cincinnati. *Harvard.*

FOREIGN AND COMPARATIVE GOVERNMENT AND POLITICS

Haig G. Abdian; A.B., Harvard, 1926. French Political Parties in the Region of Paris, 1870–1933. *Harvard.*

James Dunbar Bell; A.B., New Mexico, 1933; A.M., Chicago, 1936. An Analysis of the Élite of Mexico since 1911. *Chicago.*

Alexander R. H. Böker; Referendar (Law), University of Munich, 1934; A.B. (Oxon), 1937. Agricultural Planning in Germany, 1929–32. *Harvard.*

Arthur B. Coole; A.B., Baker, 1921; A.M., Denver, 1922; M.S., *ibid.*, 1930. The Influence of American Education upon Nationalist China. *Northwestern.*

**D. C. Corbitt;* A.B., Asbury, 1923; A.M., Emory, 1926. The Colonial Government of Cuba. *North Carolina.*

Aouney Wafa Dejany; A.B., Minnesota, 1935; A.M., Boston University, 1936; A.M., Harvard, 1938. Municipal Government and Administration in Palestine. *Harvard.*

Kimon A. Doukas; B.S. Columbia; J.D., New York University; A.M., Columbia, 1937. France in the Rôle of Entrepreneur and Manager. *Columbia.*

Arthur L. Canfield; A.B., Reed, 1936; A.M., *ibid.*, 1938. Public Opinion and Foreign Policy; The Case of Japanese Aggression in China. *Harvard.*

Kyi-ung Dzung; A.B., St. Johns University, Shanghai, 1937. The Chinese Industrial Coöperatives. *Princeton.*

Andrew Efron; Dr. Juris. Charles University, Prague, 1926. The New Russian Empire, 1927–1941. *Yale.*

Anne Putney Flora; A.B., State Teachers College (Farmville, Va.), 1935; A.M., Duke, 1939. The Function of Judicial Review of Administrative Acts as Exercised by the Councils of State in France and Italy. *Duke.*

Hans E. Fried; Doctor of Jurisprudence, University of Vienna, 1930. The German Army and the National-Socialist System. *Columbia.*

Virginia Lois Gott; A.B., Mount Holyoke, 1936; A.M., Radcliffe, 1938. The Nationalist Socialist Concept of the *Volk. Radcliffe.*

Willard Winchell Grant; B.S., Northwestern, 1930. Political Cleavages in Spain. *Northwestern.*

Roy Clark Hanaway; A.B., Columbia, 1916; A.M., *ibid.*, 1922. Mexican Federalism. *Columbia.*

Norman D. Hanwell; A.B., U. C. L. A., 1931. Rural Government in Present-Day China. *Minnesota.*

Robert E. Hosack; A.B., Wooster, 1932; A.M., Chicago, 1934. A Study of Regional Government in Modern China. *Duke.*

**Edward H. Hunnicutt;* A.B., George Washington, 1929; A.M., North Carolina, 1932. The Constitution of Argentina. *North Carolina.*

Malai Huvanandana; LL.B., Chulalalongkoon University, Thailand, 1934; A.M., University of the Philippines, 1938. Certain Aspects of the Australian Labor Party. *Michigan.*

Murray D. Kirkwood; A.B., Pomona, 1933. British Political Leadership; The Selective Process, 1846–67. *Harvard.*

John W. Lederle; A.B., Michigan, 1933; A.M., *ibid.*, 1934; LL.B., *ibid.*, 1936. The National Organization of the Liberal and Conservative Parties in Canada. *Michigan.*

Robert S. Levillain; B.E.S., University of Caen, France, 1924. European Politics from 1929; The French Point of View. *Harvard.*

William S. McCauley; A.B., Washington, 1936; A.M., Fletcher, 1938. The Economic Results of British Rearmament. *Harvard.*

Raymond G. McKelvey; A.B., Cornell, 1930; A.M., Claremont, 1931. The Propaganda Methods of British Political Parties. *Columbia.*

Charles A. Micaud; A.M., Columbia, 1939. The Attitude of the French Conservatives toward Nazi Germany—1933–1939: A Study of Public Opinion. *Columbia.*

James W. Miller; A.B., Amherst, 1936; A.M., Minnesota, 1938. Political Organization for Women and Young People in Great Britain. *Minnesota.*

Solomon Milner; A.B., University of Alberta, 1936; A.M., *ibid.*, 1938. Governmental Control of Radio Broadcasting in Canada. *Minnesota.*

Ralf F. W. Munster; A.B., Duke, 1937; A.M., *ibid.*, 1939. Othmar Spann and National Socialism. *Duke.*

Carl J. Nelson; A.B., Northwestern, 1932; A.M., *ibid.*, 1935. An Élite Analysis of China. *Chicago.*

Helen Sands Nelson; A.B., Radcliffe, 1929. The Rôle of the German Social Democratic Party in Determining Influence upon the Conduct of Foreign Affairs. *Radcliffe.*

Alan B. Overstreet; A.B., California, 1937. The Growth of Nationalism in China; with Special Reference to the Development of the Kuomintang. *Harvard.*

John Calyer Ranney; A.B., Oberlin, 1937; A.M., Harvard, 1939. Federal Union: A Comparative Analysis. *Harvard.*

David Wells Roberts; Graduate, U. S. Naval Academy, 1921; A.M., George Washington, 1937. A Study of the Council of Five as an Administrative Agency under the Tokugawa Shogunate in Japan. *George Washington.*

Warren Roberts, Jr.; A.B., Emory University, 1936; A.M., Princeton, 1939. The Decline of Liberalism in England. *Princeton.*

Guy W. C. Ross; A.B., Chicago, 1901; LL.B., Harvard, 1904. A.M., Minnesota. 1935. The Nature of Federalism in the United States and Australia; A Comparative Study. *Minnesota.*

Dorothy A. Shields; A.B., Goucher, 1931; A.M., Pittsburgh, 1933. The French Solidarity Movement. *Pittsburgh.*

Rose M. Somerville; A.B., Barnard, 1934; A.M., Columbia, 1935. The Soviet Constitution. *Columbia.*

John Cunningham Sparks; A.B., Tulsa, 1932; A.M., Ohio State, 1937. An Analysis of the British Conservative Party, 1906–1939. *Ohio State.*

William S. Stokes; A.B., U. C. L. A., 1938. The Study of Political Institutions and Governmental Development in Honduras as Conditioned by the State of Political Maturity of the People. *U. C. L. A.*

Tien Yih Yang; A.B., Nankai University, 1937. Eastern Siberia in the Twentieth Century. *Yale.*

INTERNATIONAL ORGANIZATION, POLITICS, AND LAW

George W. Anderson; LL.B., University of Petrograd (present Leningrad), 1917. Aspects of Russian Policy in the Far East. *Minnesota.*

Harmodio Arias, Jr.; A.B., Cambridge, 1938. Plans for Pan-American Neutrality. *Columbia.*

Roberto E. Arias; A.B., Cambridge, 1938. Diplomatic Relations between Panama and U. S. A. since 1903. *Columbia.*

Robert Shillingford Babcock; A.B., Rochester, 1937; A.B., Oxford, 1939. International Federation. *Northwestern.*

Beatrice M. Bain; A.B., California, 1936; A.M., Radcliffe, 1937. The War Referendum—A Problem in Democratic Control of Foreign Affairs. *Radcliffe.*

John A. Bekker; A.B., Kansas, 1934; A.M., *ibid.*, 1935. The Soviet Quest for Security. *Chicago.*

Ross N. Berkes; A.B., George Washington, 1937; M.F.S., Southern California, 1938. The Doctrine of Recognition as an Instrument of Diplomacy. *Southern California.*

Charles Gray Bream; A.B., Midland, 1936; A.M., Chicago, 1939. Embargoes as a Tool of American Foreign Policy. *Chicago.*

Margaret Ellen Brown; A.B., Chicago, 1939. The Treaty of Friendship between Poland and Germany, 1934. *Chicago.*

Edward H. Buehrig; Ph.B., Chicago, 1932. The Balance of Power. *Chicago.*

Marguerite C. Burk; A.B., Kansas, 1937; A.M., *ibid.*, 1938. Vessels in Distress. *American.*

Donald M. Castleberry; A.B., Central College, Oklahoma, 1935; A.M., Oklahoma, 1936. Opium in the International Relations of China. *Minnesota.*

J. C. Ching; A.B., Yenching University, 1927; A.M., *ibid.*, 1932; A.M., Princeton, 1934. The International Relations of Tibet. *Chicago.*

James L. Colbert; A.B., British Columbia, 1938; A.M., Columbia, 1940. Partiality of States in War. *Columbia.*

Edwin Costrell; A.B., Maine, 1938; A.M., 1939. How America Viewed the World War, 1914–1917. *Clark.*

C. Sidney Cottle; A.B., Whitman, 1931; M.B.A., Stanford, 1934. The Canadian-American Reciprocal Trade Agreements of 1935 and 1938. *Columbia.*

Hugh O. Davis; A.B., Baylor, 1925; A.M., Harvard, 1930. Development of the Most-Favored-Nation Clause by the United States. *Harvard.*

John C. DeWilde; S.B., Harvard, 1930. The Commercial Policy of National Socialist Germany, 1933–39. *Columbia.*

Edwin Knox Dole; A.B., Pacific University, 1932. The Policy of the United States of Granting Aid Short of War to Nations Victims of Aggression. *Stanford.*

**Arthur Butler Dugan;* A.B., Princeton, 1932; A.M., *ibid.*, 1933; B.Litt., Oxford, 1935; Diploma in Economics and Political Science, *ibid.*, 1936. Parliamentary Opinion of the League of Nations from 1918 to 1938. *North Carolina.*

Charles W. Duhig; A.B., Harvard, 1929; A.M., *ibid.*, 1932. Russo-German Tariff Relations, with Their Political Aspects, 1892–1905. *Harvard.*

George H. Dunne; A.B., Loyola College, 1926; A.M., Gonzaga, 1932. Jesuit Relations with China in the 16th and 17th Centuries. *Chicago.*

Robert Ellsworth Elder; A.B., Indiana State Teachers College; A.M., Chicago, 1937. The Foreign Policy of Taft and Knox. *Chicago.*

A. Randle Elliott; A.B., Westminster, 1935; A.M., Harvard, 1938. Regionalization of Security in International Government. *Harvard.*

Henrietta H. Fernitz; A.B., Northwestern, 1934; A.M., *ibid.*, 1936. American Participation in International Health Administration. *Northwestern.*

Russell H. Fifield; A.B., Bates, 1935; A.M., Clark, 1940. Regionalism as a Factor in International Relations. *Clark.*

William W. Fitzhugh, Jr.; A.B., Dartmouth, 1935; A.B., Cambridge (England), 1937; A.M., *ibid.*, 1940. Population and Peace. *Columbia.*

John Warner Foley, Jr.; A.B., Dartmouth, 1937. The Ideal of a New Diplomacy in American and British Liberalism of the Pre-World War Period. *Yale.*

Clayton D. Ford; A.B., Minnesota, 1929; A.M., *ibid.*, 1930. The Open Door Doctrine in Sino-British Relations. *Minnesota.*

George B. Gardiner, Jr.; Ph.B., Vermont, 1937; A.M., Harvard, 1940. North American Government; A Study of Canadian-American Relations during World War II. *Harvard.*

Meredith Gilpatrick; Ph.B., Chicago, 1925; LL.B., Southern California, 1928. The Military Strategy on the Western Front from 1871 to 1914. *Chicago.*

Charles Goff; Ph.B., Wisconsin, 1938; A.M. Northwestern, 1941. Legislative Purpose of Neutrality Acts. *Northwestern.*

Welles A. Gray; A.B., Minnesota, 1923; A.M., *ibid.*, 1924. The International Sanction. *Harvard.*

Abraham A. Greenberg; A.B., Yale, 1935; A.M., *ibid.*, 1938. Economic Aspects of the Philippine Question. *Yale.*

Solly Albert Hartzo; A.B., Washington and Lee, 1921; A.M., Columbia, 1925. The Parties to Treaties. *Chicago.*

Sherman S. Hayden; A.B., Harvard, 1930; LL.B., *ibid.*, 1933; A.M., *Columbia*, 1936 International Protection of Wild Life. *Columbia.*

L. Wendell Hayes; A.B., Bates, 1931. American Proposals for Maintaining Neutrality during the World War. *Chicago.*

John L. Hess; A.B., Ohio State, 1936; A.M., *ibid.*, 1938. The Rôle of the Political Statesman in Modern Diplomacy. *Ohio State.*

Richard W. Jennings; A.B., Park College, 1927; A.M., Pennsylvania, 1933. The Bering Sea Arbitration; A Study of the International Judicial Process. *California.*

Dana H. Johnson; A.B., Wittenberg, 1925; A.M., Ohio State, 1932. The Attitudes of Selected American Religious Denominations toward International Relations since 1914. *Ohio State.*

Ronald S. Kain; A.B., Montana, 1922. The Chaco Dispute. *Columbia.*

Arthur S. Keller; B.S., C. C. N. Y., 1930; A.M., Columbia, 1933. Legal Relations and Status of Chinese Resident Aliens in the South Pacific Area. *Columbia.*

John J. Kennedy; A.B., New Mexico, 1936; A.M., Columbia, 1938. National and International Governmental Associations. *Columbia.*

Joseph A. Kitchin; A.B., North Dakota, 1931; A.M., Michigan, 1934. The Relation of International Law to the Law Applied in Suits between Members of Composite States. *Michigan.*

Marie Stuart Klooz; A.B., Sweet Briar, 1933; A.M., Columbia, 1939. State Responsibility for Acts of Individuals under Fascism. *Columbia.*

Klaus Knorr; Heidelberg and Tübingen, 1931–36. Theories of Colonial Expansion. *Chicago.*

Howard V. Kohr; A.B., Washington, 1933; A.M., Hawaii, 1936. International Law Aspects of the Northwest Fisheries Problem. *Washington* (Seattle).

Selahaddin Kurttepeli; A.B., Robert College, Istanbul, Turkey, 1938; A.M., Southern California, 1940. Factors Governing the Turkish Policy toward the Balkans, 1938–41. *Southern California.*

Mahmut Nedim Lacin; A.B., Robert College, Istanbul, Turkey, 1936; M.B.A., Southern California, 1937. The Importance of the Straits in the Foreign Relations of the Turkish Republic. *Southern California.*

**Margaret LaFoy;* A.B., New Jersey College for Women, 1936; A.M., Bryn Mawr, 1938. The Functioning of the League of Nations in the Chaco Dispute. *Bryn Mawr.*

Richard Victor Langford; A.B., Southern California, 1936; A.M., Pennsylvania, 1937. Executive Determination of British Foreign Policy from 1870 to 1925. *Virginia.*

George A. Lany; B.Sc., University of London, 1937; A.M., Harvard, 1940. Growth of British Nationalism, 1775–1850 (from Burke to Palmerston). *Harvard.*

Perry Laukhuff; A.B., Otterbein, 1927; A.M., Harvard, 1928. The Central American Court of Justice, 1907–18. *Harvard.*

**Ruth Catharine Lawson;* A.B., Holyoke, 1933; A.M., Bryn Mawr, 1934. The Place of the *Compromis* in International Law. *Bryn Mawr.*

John C. LeClair; A.B., C. C. N. Y., 1927; A.M., Columbia, 1931. The New Imperialism. *Columbia.*

L. Larry Leonard; A.B., Alfred, 1938; A.M., Columbia, 1939. Legal Aspects of the International Regulation of Fisheries. *Columbia.*

Hans Leonhardt; Abitur, Gymnasium, Duesseldorf, 1919. Referendar, First Prussian Law Examination, 1922; Courts Assessor, Great Prussian Law Examination, Berlin, 1926. The Nazification of the Free City of Danzig. *Chicago.*

Evelyn S. Lichtenberg; A.B., Barnard, 1938; A.M., Columbia, 1939. The Doctrine of Retaliation in International Law. *Columbia.*

Oliver J. Lissitzyn; A.B., Columbia, 1933; LL.B., *ibid.*, 1935. International Air Transport; A Study in National Policy. *Columbia.*

Robert E. Long; A.B., Yale, 1936; A.M., *ibid.*, 1938. Naval Bases and the United States; An Aspect of Peace-Time Strategy. *Yale.*

John Bothwell McConaughy; A.B., Alabama, 1933; A.M., *ibid.*, 1935. The American Bankers and Latin-American Public Loans, 1919–1929. *Chicago.*

Charles H. McLaughlin; A.B., Denver, 1929; A.M., *ibid.*, 1934; LL.B., Harvard, 1935. Historical Influences in the Law of Treaty Interpretation. *Columbia.*

Abraham Manell; A.B., Middlebury, 1934; A.M., California, 1936. The Association of Nations in the Eighteenth Century. *California.*

Frederick J. Mann; A.B., Columbia, 1933; A.M., *ibid.*, 1935. Sovereignty in the Antarctic. *Columbia.*

James Victor Martin, Jr., A.B., DePauw, 1938; A.M., Fletcher, 1939. United States-Siamese Diplomatic Relations. *Fletcher.*

George L. Millikan; A.B., Southern California, 1934; A.M., Yale, 1938. The Status of Armed Merchant Vessels. *Yale.*

Ernest K. Moriwake; A.B., Harvard, 1926; A.M., *ibid.*, 1927. Relations of Peace Treaties to Preëxisting Treaties. *Harvard.*

John H. Moore; Ph.B., Chicago, 1933; A.M., Chicago, 1936. Legal Regulation of Aircraft in Time of War. *Chicago.*

John Natalizi; A.B., Syracuse, 1935; A.M., 1938. American Public Opinion in the Italo-Ethiopian Crisis. *Clark.*

Louis Nemzer; A.B., U. C. L. A., 1936; A.M., *ibid.*, 1938. The Soviet Union and the International Position of Outer Mongolia. *Chicago.*

Robert G. Neumann; A.M., Amherst, 1940. Extradition and the Political Offender. *Minnesota.*

Wilbur Newman; B.S., Whitman College, 1926. Documents Embodying Guarantees for Private Performance of State Obligations. *Columbia.*

Nathan A. Pelcovits; A.B., C. C. N. Y., 1933; A.M., Columbia, 1937. Interrelation of British Foreign Policy and Trade in the Far East. *Columbia.*

Sophia R. Pelzel; A.B., Southern California, 1935; A.M., *ibid.*, 1936. American Intervention in Siberia. *Pennsylvania.*

Richard M. Perdew; A.B., Swarthmore, 1926. Institute Universitaire de Hautes

Études Internationales, Int. Diplome, 1929. Diplomatic Consequences of Economic Nationalism. *Chicago.*

Robert John Peterson; S.B., Northwestern, 1934. Manchuria's Status since 1931 as Interpreted by Japan, China, and Manchukuo. *Chicago.*

Elmer O. A. Plischke; Ph.B., Marquette, 1937; A.M., American, 1938. Jurisdiction in the Polar Regions; A Study of Legal Principles Involved in Acquiring New Territory. *Clark.*

Louis A. Radelet; A.B., Notre Dame, 1939. The Significance of Population Pressure in the Causation of Modern Warfare. *Notre Dame.*

Arthur Huber Redfield; A.B., George Washington, 1913; M.S., *ibid.*, 1925. Nationalism in the International Petroleum Trade. *American.*

A. G. Ronhovde; A.B., St. Olaf; A.M., North Dakota. Problems of Nationality in Adjudications before International Tribunals. *Columbia.*

Joseph Reed Routten; B.S., Mississippi State College, 1912; A.M., George Washington, 1935. German Interest in Latin America Prior to the World War, 1898–1914. *American.*

Rosemary Lorna Savage; A.B., Toronto; A.M., Columbia, 1940. American Expansionism in Canadian-American Relations. *Columbia.*

Ching Cheng Shih; B.D., Hartford Seminary, 1934; A.B., Peiping National University, 1931. The Conception of International Law in the Ch'un Ch'iu Period, 722 B.C.–481 B.C. *Chicago.*

Smith Simpson; B.S., Virginia, 1927; M.S., *ibid.*, 1928; LL.B., Cornell, 1931. International Movement for the Limitation of Hours of Work Undertaken by the International Labor Organization. *Columbia.*

Agnes Mae Snipes; A.B., Washington, 1937; A.M., *ibid.*, 1937. Study of Status of Women Workers under International Labor Organization. *Washington* (Seattle).

Richard C. Snyder; A.B., Union, 1937; A.M., Columbia, 1939. The Most Favored Nation Clause—Comprehensive Survey. *Columbia.*

Hobart A. Spalding; A.B., Harvard, 1934. A Survey of the International Law of Sovereign Immunity. *Columbia.*

John M. Swarthout; A.B., Southern California, 1934; A.M., *ibid.*, 1937. Exchange Controls in South America. *Southern California.*

Paul Bennett Taylor; A.B., Doane, 1927; A.M., Columbia, 1930. Execution of Treaties in the United States. *Columbia.*

Irwin Morris Tobin; B.S., Tufts, 1933; A.M., Clark, 1934; A.M. in Law and Diplomacy, Fletcher, 1935. Non-Recognition as an Instrument of Coercion. *Brown.*

Julius Towster; Ph.B., Chicago, 1930; J.D., *ibid.*, 1932. War and Diplomacy in the Soviet Union. *Chicago.*

I-Mien Tsiang; A.B., Ohio Wesleyan, 1931. The Question of Expatriation in America Prior to 1907. *Johns Hopkins.*

Dallas Alma Tueller; A.B., San José State, 1935. The Development of Diplomatic Relations between the United States and Australia, 1930–1941. *Stanford.*

Hibernia S. Tyrrell; A.B., Randolph-Macon, 1929; A.M., Duke, 1930; A.M., Vanderbilt, 1937. Projects for Leagues of American Nations. *Yale.*

Donald Edward Van Koughnet; A.B., Minnesota, 1928; A.M., *ibid.*, 1929. The Council of the League of Nations, with Special Reference to Procedure. *Harvard.*

Henry Wei; A.B., Lingnan, 1935. The Sino-Japanese Hostilities and International Law. *Chicago.*

Leonard Weiss; A.B., Chicago, 1939; A.M., Fletcher, 1940. Transition Problems Arising out of Current Canadian-American Economic Relations. *Fletcher.*

Alfred Eugene Wellons; A.B., Allegheny College, 1938; A.M., Chicago, 1939. United States Relations with Egypt. *Fletcher.*

Carlos F. Wieman; LL.B., Suffolk Law School, 1929; A.M., Harvard, 1931. South American Rivers of Concern in International Law. *Harvard.*

John E. Williams; A.B., St. Viator, 1923; A.M., Catholic University, 1929. The Status of Aliens in International Law. *Illinois.*

William Willoughby; A.B., Kentucky, 1934; A.M., *ibid.*, 1936. Immigration Policies of the Latin American Countries. *Wisconsin.*

Howard H. Wilson; Ph.B., Chicago, 1936. British Foreign Policy in the Nineteenth Century in Regard to Aggression. *Chicago.*

Jess E. Wilson; A.B., Pomona, 1933; A.M., Southern California, 1936. American Neutrality in Theory and Practice, 1928–1938. *Southern California.*

Maurice K. Wise; A.B., New York University, 1921; LL.B., *ibid.*, 1923; LL.M., *ibid.*, 1925. International Law on the State Power to Requisition. *Columbia.*

Edward Henry Zabriskie; B.S., Columbia Teachers College, 1921; A.M., Columbia, 1922. American-Russian Conflicts in the Far East from 1895 to the Outbreak of the Great War. *Chicago.*

Leviathan and the People. By R. M. MacIver. (Baton Rouge, La.: Louisiana State University Press. 1939. Pp. ix, 182. $2.00.)

This little book, which represents Professor MacIver's lectures on the Edward Douglass White Foundation at Louisiana State University, is a model of what lectures of this sort should be. It will be especially useful to those who have been looking for a really effective short statement of the case for democracy as against the dictators that meets the criticism so often leveled at democracy, and at the same time takes high ground in a positive statement.

The lectures dealt with the New Leviathan in terms of the rights of a nationalism gradually expanding into industrial society and struggling always to overcome the evil genius of intolerance. But alongside this development is the genius of dictatorship, which is given as acute an analysis as it has had, in simple terms that take into account not only the pressure for planning but the psychological and moral basis on which Nazism and totalitarian systems have been erected. The positive statement for democracy makes one of the most interesting analyses of Ortega y Gasset's case against the mass mind, and then deals with a very fundamental restatement of the democratic position.

Mr. MacIver rests his case primarily on two principles: "(1) Democracy puts into effect the distinction between the state and the community," and "(2) Democracy depends on the free operation of conflicting opinions." In applying these characteristics to the economic order, he refuses to accept the dilemmas posed by Lippmann, and by Max Lerner and others, and points to the various characteristics of an economic system which democracy can actually fit.

Perhaps the most useful and interesting thing in the book comes in the Commentary in Part II, which elaborates some of the ideas barely sketched in the lectures, with an appropriate system of citations and some very interesting and original comments on the effective range of public opinion in a democracy, democracy in political parties, in economic planning, and so on.

If the book has any weakness, it is in that it does not perhaps adequately emphasize the problem of survival with which democracies are confronted as it affects the necessary organization of both economic and political life. The organic as well as the purposive aspects of democracy require emphasis in these times when the question of representative machinery to bear anything like a true general will is put against the harsh background of survival itself. The whole shift of emphasis in the study of democratic institutions, of pressure politics, and of the attempt to create what might be called "pragmatic" rather than "mirror" representation

as a vehicle for responsible government is perhaps necessarily left out of the forefront of these lectures. But they contain a consistent and carefully reasoned message that will be of great aid to those who are seriously concerned to make an honest statement of the democratic case.

WILLIAM Y. ELLIOTT.

Harvard University.

Europe and the German Question. By F. W. FOERSTER. (New York: Sheed and Ward. 1940. Pp. xviii, 474.)

Le Pangermanisme à la Conquête de la Hongrie: Un État dans "l'Éspace Vital." Preface de M. Henri Hauser. (Cahiers d'informations françaises. Paris: Jouve et Cie. 1940. Pp. xiii, 174.)

Masaryk's Democracy. By W. PRESTON WARREN. (Chapel Hill: University of North Carolina Press. 1941. Pp. x, 254. $2.50.)

These books, so different in topic, in method, and in mode of presentation, have a certain affinity due to the fact that they analyze three different and highly characteristic phenomena of the chaotic period of Europe between the two World Wars—phenomena whose significance will be clearer by contrasting them.

Already in Volume XXXII of this REVIEW (1938) we drew attention to the second edition of a book by the noted German philosopher, educator, and pacifist, F. W. Foerster, published in Luzern in 1937 under the title, *Europa und die Deutsche Frage*, whose considerably remolded edition the present volume is. Many of the readers of the German edition found Professor Foerster's apocalyptic diagnosis of the German evolution in the nineteenth century too ideologic, presented by the religious fervor of a prophet. Many felt that it was the voice of a persecuted man, driven from his chair and his country, who had lost the right proportions in his historical picture. The few years since the publication of the German volume have demonstrated that its prognostications foretold events more clearly than those of any other political observer.

The diagnosis of Foerster shows a striking analogy with that of Rauschning. Both emphasize the inevitable dialectic movement in the Nazi revolution towards violent expansion and destruction of the present world order. But what for Rauschning was the result of the post-war crisis and of the particular qualities of the Führer and his general staff is in the explanation of Foerster only an episode in the German destiny, and even not its most important one. For him, Hitler and his era are not exceptional phases of German history, but the final culmination of Prussian militarism, which created the absolutistic barrack state, rejecting the common pattern of Western civilization, and proclaimed the unlimited right of the super-state. Viewed from this perspective, Hitler is only the popularizer

and intensifier of the time-old Prussian tradition. In the doctrine of Hitler, the Machiavellism of the princes was supplanted by the Machiavellism of the mob. Out of a doctrine of the cool *Staatsraison*, it has become the passionate dynamism of artificially infuriated masses.

This thesis is elaborated on a broad historical line, following in the main the deep and highly original volumes of Constantin Frantz, the great political antagonist of Bismarck, who immediately after the construction of the German Empire through the blood and iron policy of the Chancellor prognosticated that the militaristic centralization of the new Germany, practically an extended Prussia, would inevitably lead into a state of war between German imperialism and the growing nationalisms of the smaller states. This historical argument is amply supplemented by the author's many-sided experiences in Germany and in the West. The war-guilt problem of the first war assumes here new proportions and new significance. Professor Foerster is convinced that nothing short of a deep moral atonement could change Germany and could persuade the German people, only after a crushing defeat, that the whole policy was bad and that the German destiny does not lie in militaristic expansion but in a peaceful guiding rôle in a Central European federation.

The methods and ideology of the German penetration into the life of the smaller countries is presented with the minuteness of a case history in the work of an anonymous author, which immediately before the collapse of France was published by Professor Hauser of the Sorbonne. It is a detailed analysis of Hungarian history since the time when the Treaty of Trianon disrupted the former unity of the country. With a sharp analysis of the social and economic structure of Hungary, the writer shows the accomplished Machiavellism of the Nazis in preparing the German penetration of Hungary. It was perfectly clear to them that the complete military, diplomatic, and economic domination of the country was absolutely necessary for carrying out their more remote plans toward the rule of Roumania and the Balkans. To avoid unnecessary military operations, they cunningly manipulated three fundamental tendencies of post-war Hungary: the general nationalistic exasperation caused by the dismemberment of the country and heated to the boiling point by a skillful official propaganda; the dominant position of the feudal aristocracy menaced by the agrarian reform in the adjacent countries and eager to regain their former supremacy over the "second-rank" nationality groups; and a widespread popular movement of Hungarian fascism, an artificial creation of Berlin, which threatened the aristocracy with the upheaval of the landless proletariat if the feudal leaders of the country would not obey the German trend and would not follow the extension of the German *Lebensraum*, the expulsion of the Jewry from all their positions in cultural, economic, and political life. Under this threat, and driven by the

desire to regain the lost territories of the Crown of St. Stephen, the governments of Hungary have become increasingly obedient instruments of the Nazi penetration. At the beginning, they consoled themselves that the Nazi domination would be mitigated by the power of the Duce, but later the crushing superiority of the Nazis became apparent. How all this was achieved step by step, how Hungary has become a cornerstone in the German totalitarian system, is convincingly shown by many figures, documents, and excerpts of articles and speeches in the present volume.

The story of *Masaryk's Democracy*, ably and eloquently narrated by Professor W. Preston Warren, takes on a new significance and stands out in sharper relief when contrasted with the totalitarian dynamism of the Nazis and the growing *révanche* ideology of Hungarian feudalism. Amidst the orgy of counter-revolutionary forces and the incompetence and apathy of the Western democracies, President Masaryk and his collaborators embarked upon an experiment which was unique, not only in the Danube basin, but also in almost the whole of Europe. In a time when the leading Western democracies abandoned more and more the spirit of democracy and allowed themselves to be guided by a timid conservativism and a blind policy of appeasement, the democracy of Masaryk recovered the former *élan* of the founders of the democratic system. In spite of its shortcomings and mistakes, it is no exaggeration when Professor Warren describes it as the only daring and promising experiment of the post-war period. This experiment was guided and inspired by the "President-Liberator," who, as teacher and publicist, elaborated a complete system of revised and enlarged liberalism and demonstrated that the essential tenet of socialism can be based only on the permanent values of individual liberty. In a period when Western democracy evinced alarming signs of senility, and when American radical opinion was more and more fascinated by the utopia of the Soviets, Masaryk, both the teacher and the president, did not lose his head for a minute and realized all the dangers of the German situation and the inevitable deadlock in Marxian socialism.

It is strange, and at the same time exciting, to see how this lonely thinker (he was the leader of a small group until the dismemberment of the Hapsburg monarchy) anticipated all those problems with which we are now struggling in America. In the process of "revitalizing democracy," to which now the best energies of this country are devoted, there is not a single topic upon which Masaryk did not concentrate the whole strength of his thought and the inspiring force of his personality. It is a great merit of Professor Warren that he has reconstructed the philosophy and the political legacy of the late President with sincerity and acumen, without making of him—as certain writers have done—the revealer of a new philosophic system. It is evident that his writings in the most varied fields of philosophy, logic, ethics, and sociology do not constitute a rigorous

philosophic system. He remained always more a teacher, a prophet, and before all an inspiring moral personality, than an academic philosopher. In spite of the distance of more than two generations, one feels a strong resemblance between him and Thomas Jefferson—the same universality of culture, the same daring outlook on future possibilities, the same unshaken belief in the masses, the same eagerness for social reforms, and the same loyality to ultimate values and principles. And though the work of President Masaryk was untimely in a world of blind power politics and was doomed to failure between the millstones of fascism, feudalism, and finance capitalism, yet the very fact that the new synthesis for political action and morality was first elaborated in a small Danubian country by the son of a coachman will give new hope and energy to those who see the ultimate cure for a ruined Europe in the federation of small nations. This is the final significance of Mr. Warren's book, which is by far the best synthesis of the doctrine of Masaryk yet presented in any language.

OSCAR JÁSZI.

Oberlin College.

Argument from Roman Law in Political Thought, 1200–1600. By MYRON PIPER GILMORE. (Cambridge: Harvard University Press. Pp. 148. $2.00.)

It has repeatedly been proved a useful technique, especially in the field of literary history, to analyze the changing character of historical periods in terms of their varied interpretation of an authoritative tradition. The author successfully applies this method to the history of political thought. For such a case study he selects the historical controversy as to whether authority rests with the sovereign prince or with the magistrates, as reflected in the changing interpretation of the authoritative Roman law during the critical period of transition from feudalism to the emerging national state. The body of the book is a detailed interpretation of various texts illustrative of the different historical stages. The study opens with the famous dispute between Lothair and Azo over "merum imperium," and follows up this issue of the structure of political power in its consecutive reception by "the Glassators and Post-Glossators," especially Accursius, Durandus, and Bartolus. It then discusses the "humanists," particularly Budaeus, Alciatus, and Zasius, "the triumvirate of humanistic lawyers"; it further confronts the great contrasting types—Dumoulin, who appropriated the work of Alciatus and applied it to French law and political theory, and the outstanding Romanist of the sixteenth century, Cujas, who held himself remote from contemporary affairs. Finally, the "theory of office in Bodin and Loyseau" is analyzed.

The development thus leads from a relatively simple and static system

to an increasingly complex and dynamic society, from representative authors of the feudal system to outstanding theorists of the national state. The material by necessity has to be selective, concentrating especially for the sixteenth century on France, "the laboratory of political thought." Such a selection, no doubt, gives the development a more definite trend than the intricate story of revival, adaptation, and modification of the Roman law in other countries might have given. Yet even within such limits, the study fulfills its purpose.

The careful analysis not only gives a splendid illustration of the life story of a basic concept in political thought, but also throws some new light on the "influence of Roman law." It certainly modifies a predominant conviction that Roman law gave "form to the theory of absolutism." In fact, it proves that the very same texts have been used to support opposite theories limiting absolute power. The study thus sets a remarkable example of the persistence of a formal concept in the history of thought, transforming its actual character in response to changing social needs. The scholarly treatment is well blended with a consideration of broader issues of political theory and intellectual history. Gilmore thus succeeds in turning a seemingly specialized study into an exciting essay for the interested political scientist.

SIGMUND NEUMANN.

Wesleyan University.

The Educational Philosophy of National Socialism. By GEORGE FREDERICK KNELLER. (New Haven: Yale University Press. 1941. Pp. viii, 229. $3.50.)

As Dr. Kneller states, "the challenge of present-day Germany, however mighty the machine that rolls over Europe, is not in its deepest reaches a military one. It is a challenge of beliefs, into which the energies of a sturdy people have gone and the vitality of a whole generation is being poured, not only in Germany, but in a constantly increasing number of formerly 'free' countries." National Socialism is essentially a gigantic educational enterprise. Its import is shown by the fact that it is steadily becoming the standardized creed of an increasing mass of German-speaking peoples throughout the world; a creed which makes racial, national self-interest the ultimate standard of conduct, asserts the right of unlimited material and ideological expansion, and is in essence the most formidable attack upon the basic teachings of liberalism heretofore experienced.

In its original form, this volume was presented as a Ph.D. thesis to the department of education at Yale University. The result of six years' study, it constitutes a comprehensive and detailed examination of the educational theories of National Socialist leaders—a carefully documented an-

thology of original source material. It is an unusually competent and much needed contribution to an understanding of the issues involved in this world conflict. Dr. Kneller has not attempted to evaluate critically the educational philosophy he has so ably outlined. Personal judgments have been rigorously excluded. Nor has he attempted to show how the educational theories actually work in practice. What he has done is "to present the situation as it is, seen in its own light, and from its own point of view."

One of the best chapters in the book is that in which the author examines critically the backgrounds of educational theory and the postulates on which it is based. Although it has been the fashion of National Socialists as well as others to trace the origins of Nazi philosophy to the philosophical writings of the past, Dr. Kneller finds that the roots of National Socialism are not so deeply sunk in this past as many would have us believe. "The compatibility of isolated elements of thought does not necessarily show harmony of the whole point of view." This becomes clear as he examines the writings of Luther, Herder, Schiller, Kant, Fichte, Hegel, Wagner, Nietsche, Treitsche, Lagarde, Bernhardi, and many others. However much some of these writers may have contributed to certain aspects of Nazi thinking today, it is unlikely that they would subscribe to the philosophy of National Socialism as a whole. The only exception, according to the author, would be Houston Stewart Chamberlain, "the godfather of National Socialism."

Using as documentation exclusively Nazi sources, Dr. Kneller produces a mass of evidence to show: (1) that the educational philosophy of National Socialism is a new ideology, the result of crisis, a modern, pragmatic creed, arising out of "the broad demands of German contemporary life"; (2) that it is a strong, conscious, and almost total antithesis to the ideals of liberalism; (3) that its fundamental postulate is the salvation of the German people; and (4) that in spite of literary extremism, educational practice is far less revolutionary than one might expect.

For nearly five years after Hitler came to power, Nazi educational theory presented a baffling maze of competing and conflicting aims and theories, at least in the writings of Nazi "educators." As a matter of fact, Hitler's *Mein Kampf* gave then, as it gives now, the clearest statement of objectives and method. The educational reforms of 1938, however, brought a certain degree of order out of the chaos, although educational theory as well as National Socialist ideology is far from being crystallized.

Dr. Kneller gives considerable attention to the impact of Nazi educational doctrines upon educational practice—upon methods of instruction, content of courses, teacher training, and the rôle of youth organizations, the church, labor service, and military service, as well as of the public schools themselves. In spite of its alleged newness, he finds that "there

is nothing very profound about official National Socialist educational policy." Nevertheless, its profundity is not the important thing. What is challenging is the driving, racial, mass solidarity which it produces.

HARWOOD L. CHILDS.

Princeton University.

Law Without Force; The Function of Politics in International Law. By GERHART NIEMEYER. (Princeton: Princeton University Press. 1941. Pp. xiv, 408. $3.75.)

This is an extremely interesting and an unusually provocative book, in which the author makes a thoroughly unorthodox approach to international law and international organization. Niemeyer's general theme is very well indicated by the title of his introduction: "The Unreality of International Law and the Unlawfulness of International Reality," by which he means to suggest that international law has broken down because it is fundamentally unsuited to international order, because "in its present form it neither serves the need, nor appeals to the moral sense, of the modern world," because of "the inadequacy of its concepts, the obsoleteness of its standards, the unreality of its rules." This theme and the functional theory of international law are brilliantly argued through nine chapters arranged in three parts dealing respectively with "The Function of Law in International Politics," "Legal Theory and Political Reality," and "A Reconstruction of International Law."

Niemeyer's argument runs about as follows: (1) International law and international order have broken down because the system in operation for the last three hundred years has been fundamentally unsound. (2) The unsoundness of international society (indeed, of "the very idea of society") is indicated by its paradoxical nature, that is, the concept of separate and independent states on the one hand and of a coherent whole which assumes mutual dependence and subordination on the other hand —the two poles of individual existence and social cohesion. (3) Since the "personalistic" system (so called because of the personality attributed to the state) is unsound, it should be replaced by the "functional" system, in which law "is no longer held to consist of mere formulas of command," but instead is conceived to be "the inner lawfulness governing the actual behavior of people." (4) In this functional system, "the problems of obligatory force of legal rules and of their revision cease to have any significance," and hence we have "Law Without Force." In this system, "a command which is issued without producing any actual effect on the behavior of individuals is not considered to be law"; the law is found "in social reality," need not be deliberately made, and, in fact, "never can be enacted as an abstract rule opposed to living reality." (5) Since such a functional system

can operate only with respect to clearly recognizable social activities, "international organization as political organization, i.e., as an agency for the general coördination of interstate relations, is a chimera," though there may be international organization in the form of agencies "with tasks that are specified and concretely agreed upon in advance." (6) The present state-system cannot, or should not, be changed into either a federal union or a world state, because, if the former, it establishes a system with divided sovereignty, divided powers, and divided organization, and is therefore impracticable, political organization being "necessarily monopolistic and exclusive"; while, if the latter, it would be "bound to be less dependent on consent, to be more mechanical, more standardized, and therefore culturally more oppressive, than any other government."

It is, of course, unfair to sum up Niemeyer's case in this drastic manner, for he himself makes an elaborate analysis of each point which needs to be read carefully. His scholarship and legal learning are bound to arouse profound admiration, but his reasoning does not seem entirely persuasive.[1] In the first place, it is not at all clear to the reviewer what is actually meant by the "functional" system of law, beyond the fact that it is a system of legal rules somehow adapted to the needs and to the behavior of individuals and of states. Secondly, while the paradoxical nature of international society is, of course, admitted and the consequent difficult problems are evident, it does not follow that those problems are completely insoluble. Anyone at all familiar with our own constitutional system knows about paradoxes—individual liberty versus social needs, due process versus police power, etc., etc.—more or less happily resolved by compromises and legal formulas, which are irrational and contradictory in themselves, but which somehow work. Those familiar with the procedures of the League of Nations know how much progress was being made there in the reconciliation of these apparent paradoxes through practical compromises between principle and practice. Thirdly, Niemeyer's strictures against international organization, especially against international federal union, would seem to apply also against our own United States, still federal in spite of all the centralizing tendencies of these 150 years. Were he somewhat more familiar with our own experience, he might see more possibilities in international organization along federal lines, whether an improved League of Nations or a more genuine Federal Union.

Finally, it may be pointed out that Niemeyer himself offers no practical plan for making the change from the present "individualistic" or "personalistic" system of law to his "functional" system. "We can do no more," he says, "than indicate in a general way that the change will come more by way of a new orientation than by way of a new organization. The machinery of legal order will follow the needs which it is meant to serve. Consequently it is the thinking which has to be remodeled before any

external devices are envisaged. What is needed is not so much a new mechanism as a new outlook of the men who handle the existing one." The new system must be one "which will coördinate the respective functions of the states—a system which, instead of restricting states, represents the conditions under which their functional ends can best be attained"; and Niemeyer's way of attaining these conditions is indicated by his concluding quotation from John Macmurray: "What we have to do is to wait and be quiet; to stop our feverish efforts to do something. The next word is not with *us*, but with reality."

This somehow seems rather futile, for one is bound to wonder whether Herr Hitler will also wait and be quiet while this coördination goes on.

CLARENCE A. BERDAHL.

University of Illinois.

Oppenheim's International Law. Sixth Edition. Vol. II: *Disputes, War, and Neutrality.* EDITED BY H. LAUTERPACHT. (London: Longmans, Green and Company. 1940. Pp. xliv, 766. $17.50.)

It is now thirty-five years since Oppenheim's treatise was first published. In that time its claim to a place among the classics of international law has been firmly established. In 1935, the fifth edition, under the able editorship of Professor Lauterpacht, enhanced greatly the value of the treatise. Now the publishers have the temerity to put out a sixth edition in the midst of a global crisis. Were they justified in taking such a bold step?

The answer, I think, on the whole is "yes." In the first place, any treatise on international law is principally a history of past practice, and to this extent is not greatly affected by the shifting events of the day. In the second place, a great deal has happened in the field of international law since the last edition, and many sections needed drastic revision. Again, since the present volume deals with war and neutrality, what more appropriate time could there be for its issuance than the current period of world struggle?

At the same time, it cannot be denied that the present crisis is forcing a reconsideration of many of our accepted notions about the nature of war, and some sections of this new edition have already been outdistanced by contemporary thought and events. Thus Lauterpacht insists throughout that the original distinction between civilians and armed forces is still intact, and that war is today merely "a contention of States *through their armed forces*" (p. 168, italics in original). But this is very difficult to reconcile with what is taking place in Europe today. Again, in the section on air warfare, Lauterpacht asserts that "international law protects noncombatants from indiscriminate bombardment from the air" (p. 416).

The inhabitants of any English or German city of today might be pardoned if they were not very much impressed by this kind of protection. The revised section on armed merchantmen merely repeats the traditional British defense of the practice of arming merchant ships, and adds that the novelty of a weapon does not carry with it a legitimate claim to change of the existing rules of war. At the same time, the British practice of forcing neutral merchant ships into control ports for examination is defended by Lauterpacht on the ground that under modern conditions visit and search at sea have become very difficult. In other words, technological advances seem to justify a change in the rules of law in the one case but not in the other.

On the whole, though, the traditional rules of law have stood up surprisingly well under the impact of total war. The present volume contains an extremely skillful exposition of these rules. Let us hope that it will be widely used.

FREDERICK S. DUNN.

Yale University.

The Foundations of a More Stable World Order. By FERDINAND SCHEVILL, JACOB VINER, AND OTHERS. (Chicago: University of Chicago Press. 1941. Pp. xiii, 193. $2.00.)

The six lectures published under this title were designed primarily to supplement the round table discussions at the sixteenth Institute of the Harris Foundation of the University of Chicago "by placing the subject-matter of the Institute in its proper historical perspective and by emphasizing some of those factors in international relations which particularly affect the stability of the world order." The historical perspective is provided principally by Ferdinand Schevill, who argues that our Western civilization, like others which have preceded it, is subject to the laws of growth and may be destined to fall as they have fallen. A real threat is the exaggeration of science and the nation-state, the two ruling forces of the present stage of Western civilization. In order for it to survive we, not as individuals but as "purposefully organized groups," must find a common understanding, and must resolutely tackle the complex problems presented by the world situation with full appreciation of historical factors.

Charles C. Colby, describing the rôle of shipping, Quincy Wright, of international law, and Walter H. C. Laves, of international institutions, draw attention to factors which have affected, and will undoubtedly continue to affect, the stability of world order. Wright itemizes the chief defects of international law and suggests the means of remedying them, and Laves makes a similar analysis of international institutions. Both imply that a world order can be realized only if the Axis Powers are defeated. Jacob Viner and J. Fred Rippy emphasize the rôle of the United States,

what effect its policies have had during the past twenty years, and what effect the war is likely to have on it. They agree that it is necessary for the United States to strengthen greatly her defenses in view of a possible victory by the Axis Powers, and consider the possibilities of a closer union with the other states of this hemisphere. Both begin their analysis of the position of the United States with some reflections on American foreign policy. Some readers will feel that Viner overestimates and that Rippy underestimates, the effect of American isolation on the European situation.

The reviewer agrees with Rippy that the responsibility for Hitler's strength rests heavily on Britain and France. However, it seems to him that Rippy does not attach enough importance to the effect of the neutrality policy adopted in 1935. By its adoption, the American people served notice that they could not be counted upon to prevent acts of aggression. More important than the "go ahead" signal to Hitler, as this action has been described, was that it undoubtedly encouraged the appeasement elements in Britain and France to pursue the policy which has since proved so disastrous and the isolationists here to believe that the American democracy could be secured without positive efforts to protect it. To others than those who attended the lectures last summer, they should be of interest for the analysis of some of the problems involved in establishing a more stable world order as these problems were seen by competent observers immediately after the collapse of France.

HOWARD B. CALDERWOOD.

University of Michigan.

The United States and Japan's New Order. By WILLIAM C. JOHNSTONE. (New York: Oxford University Press. 1941. Pp. xii, 592. $3.00.)

This book is not concerned with speculation about the nature of Japan's "new order" and its future significance for the United States. It is a solid, comprehensive treatment of the effects of the Sino-Japanese war on American rights and interests in China, and of American policy as it has been defined and applied during the course of the war. The conception of "rights" as distinguished from "interests" is based upon treaty grants from China. The "interests," which are economic, philanthropic, and religious, have been created within the framework of treaty "rights" such as those of extraterritoriality, residence within special areas, and navigation. Part I, following two introductory chapters, defines American rights item by item, explains how each came into being, and describes the effect of Japanese action on each. Part II does the same thing for American interests, including trade, business, religious, and philanthropic enterprises. This section concludes with an interesting and suggestive analysis of the attitudes of Americans in China toward the war.

Part III takes up American Far Eastern policy as it has been affected by the Sino-Japanese conflict. This is considered in three successive chapters determined largely by the chronology of evolution of the war. The first phase extends to January, 1938. During it, policy was "directed toward the maintenance of American rights and interests in China by means of diplomatic protests and the action of American diplomatic and consular officials on the spot" (p. 250). The second phase was terminated with the outbreak of the European war. Within it was the period of formulation of the "new order" conception and American rejection of its validity. During it, however, "the pattern of the first phase was continued. Constant restatements of general principles of policy were implemented by protests against specific actions by Japan in China. Some material aid was given China in addition to moral support. The movement of the American fleet into the Pacific in the spring of 1939 was a hint to Japan that the United States was not unprepared to back up its protests" (pp. 281–82). The third phase extends from the outbreak of war in Europe to the present.

The book has two concluding chapters: one devoted to conclusions, in the nature of a summary; and one in which the author develops his view of "a Far Eastern policy for the United States in a world at war." Many will not agree with his general and specific proposals. The reviewer does. The book has eight appendices, a brief but adequate bibliographical note, and a foreword by Admiral H. E. Yarnell. The specialist will find the data in the first two sections of as much value as the discussion of policy in the third. The general reader will probably find the third part the most interesting and illuminating. Both will agree that Professor Johnstone has made a real contribution to the literature both of the Far East and of American foreign policy.

HAROLD M. VINACKE.

University of Cincinnati.

Holmes-Pollock Letters: The Correspondence of Mr. Justice Holmes and Sir Frederick Pollock, 1874–1932. EDITED BY MARK DEWOLFE HOWE. (Cambridge: Harvard University Press. 1941. 2 vols. Pp. xxii, 275; 359. $7.50.)

This collection of letters between two eminent lawyers, running over a period of nearly sixty years, is rich in items philosophical, legalistic, and historical. It is without order, of course, except the order of chronology. Yet there is synthesis in the evolution of ideas and in the adjustment of minds to the facts of history and to the conditions of growing old.

As to Holmes, in whom American readers will have the greater interest, the letters confirm impressions about him already widely held and shed new light as well. Particularly illuminating are his comments about his

life and activities as a member of the Supreme Court. He was greatly pleased at his appointment to the Court, which he received from Theodore Roosevelt, but he was correspondingly depressed as to the kind of publicity the appointment received. It was generally favorable publicity, but it seemed to him devoid of discrimination and understanding. The comments, he declared, had the sloppiness of American ignorance. He thought he had already made a genuine contribution to jurisprudence and it grieved him to see it completely unrecognized. He was stung by an adverse comment to the effect that he was brilliant but not sound.

As a member of the Supreme Court, he soon offended the President who had appointed him by dissenting in the Northern Securities case, which constituted one of Roosevelt's pet antitrust projects. Roosevelt even considered barring him from the White House for his stand. He believed then, and he continued to believe, that the Sherman Antitrust Act was a humbug based on economic ignorance and incompetence. He believed that the Interstate Commerce Commission was an unfit body to be entrusted with rate-making, and he seems to have taken some pride in writing decisions limiting its powers. Yet he was so skeptical as to knowledge about the goodness or badness of laws that he had no practical basis of criticism except what the crowd wanted. It was this attitude of skepticism, no doubt, that resulted many times in his joining with Justice Brandeis in dissenting from decisions striking down acts of legislation on constitutional grounds. As to his own thinking, he remained unconvinced that the abandonment of *laissez faire* represented a wise departure.

With all his skepticism, a strain of idealism in his make-up prevented his appreciation of Charles A. Beard's *An Economic Interpretation of the Constitution of the United States*. He failed fully to comprehend Beard's underlying desire to expose the pompousness of his fellow-historians, which was not unlike Holmes's own irritation at pompousness on the part of brethren on the Court. His idealism became genuine ardor in the defense of civil liberties. He was disturbed at the imperviousness of some of his colleagues in the face of gross invasions of such liberties. He writhed beneath the criticism directed at him for opinions of the Court written by him upholding convictions of Eugene V. Debs and others accused of espionage and other war-time offenses. The violations of law seemed to him clear, and he thought the Court could not have acted otherwise; but he hoped the President would pardon the unfortunate convicts.

He lived a rich life apart from his profession. His reading ranged all the way from Spengler's *Decline of the West* to *Gentlemen Prefer Blondes*. He discussed both with equal zest. He was especially fond of brilliant young men. He greatly admired Walter Lippmann, and he tried vainly to convey to his correspondent his personal enthusiasm for Harold Laski, who had been introduced to him by Felix Frankfurter. There was a period in which

he seems to have been uneasily conscious of his age, the period around 1911 and 1912 when he was reaching seventy and closing a decade on the Court, so that he was entitled to retire without reduction of compensation. After that period, he lost much of his self-consciousness and continued zestfully at his work without much concern about the advisability of retirement. The correspondence documents the story of the richness and variety and professional competence of a man who will go down in history as one of the outstanding personalities of his time.

CARL BRENT SWISHER.

Johns Hopkins University.

Organization of Courts. BY ROSCOE POUND. (Boston: Little, Brown and Company. 1940. Pp. xiii, 322. $5.00.)

Any book by Roscoe Pound should command attention of students of government or law, but a volume by him on the organization of courts is especially important. After a lifetime of leadership in legal study and teaching, as well as unusual opportunities for direct observation of the processes of justice, the author brings a background of scholarship and wisdom to his task which few could equal and none surpass. The basic data for the book are historical, but are intended to point out the chief trends of judicial development as a guide to future improvements in the courts rather than to be a general history of American law.

After a brief, but ample, chapter on the English model for the colonial courts, there are two chapters on the organization of the courts in the colonies. The chapter on the Seventeenth Century describes, colony by colony, the judicial agencies as first established, while the chapter on the Eighteenth Century considers the development of those agencies by similar types, cutting across colonial lines. Thus there is a section on the ultimate court of review, one on courts of general jurisdiction, and another on probate courts. The next three chapters describe the development of the judicial establishments in the states and federal government during the past century and a half. One of these chapters is devoted to the pre-Civil War period, another to the courts in the newer states, and a third to the changes which have been made in the older judicial systems. Each of these chapters contains a wealth of detail, with full citation of the sources.

The workmanship in these chapters is of the highest. They are thorough, covering the entire field of judicial organization as it has developed in America. They are accurate—a careful reading has failed to disclose any significant slips. They are exceedingly scholarly, representing prodigious research in the statutes, judicial decisions, and constitutional convention proceedings. But they are also tedious—at least to one who has come to

look for the flashes of insight which have so distinguished the author's genius, or for the amazing gift of synthesis which features his earlier works.

The reader who lays the book aside after concluding the historical survey, however, will make a serious mistake. In the two final chapters, the old Pound reappears. Here one finds the apt phrases, e.g., "Specialized courts should be replaced by specialist judges" (p. 272), the broad yet accurate generalizations, and the unerring judgment based on a lifetime of judicial study. In them Dean Pound brings together a summary of his criticisms of the plethora of judicial ideas which have been tried in the United States and outlines in succint form the principles on which a judicial establishment should be based if it is to meet the needs of present-day America. The main ideas in these chapters are not new, but if they were to be adopted they would certainly be revolutionary.

The chief criticism of our courts centers around the inveterate tendency of constitution-makers and legislators to hamstring the judges with detailed prescriptions of inflexible administrative regulations. It is pointed out, for example, that five pages of statutes are required to specify the places where the Massachusetts district courts are to be held and that these provisions have been the subject of 274 statutes. The chief constructive proposal is that there is "urgent need of an administrative hierarchy with a responsible head and responsible subordinates" (p. viii). It is remarkable that the courts have done as well as they have in the past in view of their tradition of disorganization. Indeed, the "courts have on the whole the best constructive record of any of our institutions" (p. 292). But if that record is to be maintained, it will be necessary for them to secure the efficiency which can only come from more thorough organization.

Lack of uniformity is perhaps the most striking characteristic of American political institutions. Instead of the forty-eight experiment stations which Lord Bryce praised, we really have several hundred. This is as true with respect to the courts as of any other branch of our government. No two states have the same kinds of judicial agencies, and within a single state, several different forms of court organization are commonly found. It is possible, for example, to illustrate every known method of choosing court officers without leaving the confines of New York State. It is amazing that so little serious effort has been made to apply scientific techniques to the study of these various forms of court organization. Perhaps one excuse for the failure of political scientists and lawyers alike to grasp their opportunities in this respect has been the huge amount of spade work which would have to be done before pay dirt could be found. Dean Pound has cut a substantial part of the ground from under that excuse. By pointing out the broad features in the development of our courts and by showing

where sources of information may be secured, he has prepared the way for further statistical, analytical, and case studies of the problem.

RODNEY L. MOTT.

Colgate University.

Justice in Grey. By WILLIAM W. ROBINSON, JR. (Cambridge: Harvard University Press. 1941. Pp. xxi, 713. $7.50.)

This study is a thorough discussion of a hitherto much neglected phase of the governmental system of the Southern Confederacy. It is characteristic of historians to deal very briefly and simply with judicial systems because of the legal technicalities involved. Here for the first time is a complete analysis of the organization, jurisdiction, and operation of the federal as well as the state judicial systems of the Confederate States of America.

The state courts were practically unchanged by the transition of the states from the Union to the Confederacy, because the state constitutions, statutory law, common law in the Old South and a combination of common law and the civil law in Florida, Louisiana, and Texas, judicial precedent and procedure remained unmodified. Even the personnel of the state courts remained undisturbed except as it was affected by military service. There is, therefore, no special contribution in that phase of the discussion relating to the state courts, since they were the same after as before secession, with the exception that their jurisdiction was somewhat increased as a result of the reduction of the jurisdiction of the federal courts as compared with those of the United States. This was a logical result of the greater emphasis on state rights characterizing the entire system. It will be remembered that in the Federal Convention of 1787 there was such opposition to the establishment of inferior federal courts that the Convention left the matter to the Congress. The Constitution of the Confederacy, however, specifically provided for federal district courts. Only in Kentucky and Missouri, where the state governments attempted to secede and were overthrown by the establishment of governments loyal to the United States, were the state judiciaries seriously disturbed.

The judicial system of the Confederacy consisted of two classes of courts as to legal basis: (1) constitutional courts and (2) legislative courts. The first class was divided into: (1) central courts and (2) local courts. The second class consisted of (1) territorial courts for Arizona and (2) extraterritorial courts for the Indian country. The central courts provided by the permanent constitution were: (1) the Supreme Court; (2) the High Court of Impeachment—the Senate of the Confederacy, and (3) the Court of Claims. The Supreme Court was never established, though repeated attempts were made in Congress to comply with this mandatory provision of the Constitution. It is interesting that the Court of Claims

was made a constitutional court, with compulsory jurisdiction over a matter that was still a political issue in the United States, though a so-called Court of Claims had been established in 1858.

The local courts were (1) the district courts and (2) the Court of Admiralty and Maritime Jurisdiction located at Key West. Each state was provided with a district court, which sat in two divisions of the following states: South Carolina, Georgia, Mississippi, Louisiana, Virginia, Arkansas; in three divisions of Alabama, North Carolina, and Tennessee; and in four divisions of Florida. There were several significant features of the district court system. In the first place, there were no circuit courts without a separate bench as in the United States—an anomaly later abolished. The judges of the district courts were permitted to fix the terms of their courts. The most progressive feature of the system was that the district judges could sit in chambers to issue the various writs, to make rules and orders in urgent cases, and to conduct interlocutory proceedings—the preliminaries to trial. This was a tremendous advance which was adopted by Great Britain in 1873 and is being introduced in judicial procedure in the United States at the present time. Common law procedure is abolished in chambers; cases are prepared for trial, and in a large majority of instances are settled without formal trial.

Law and equity were combined in the same court and administered according to modified and simplified procedure. This had been done in Texas in 1845 and was done in Great Britain in 1873. The influence of the civil law in Florida, Louisiana, and Texas was evidently responsible for this innovation in the Confederacy.

No state could be made a defendant in the jurisdiction of the Supreme Court. Nor did the Court's jurisdiction extend to controversies between citizens of different states. A citizen could be brought only before the district court of the district of his residence. State laws governed the practice of the district courts. Appeals to the Supreme Court in civil matters were restricted to controversies involving $5,000 or more. In general, jurisdiction was more extensive in the federal district courts and the state courts than in the United States.

A rather elaborate Department of Justice was provided, and the courts were extensively staffed, including auxiliary masters and referees. In general, emphasis was placed on the administration of justice by a provision for a more adequate system of judicial administration. A hierarchy of administrative officials was provided.

This is a piece of careful research, which a brief review cannot properly evaluate. While most of the information in the study is new, its most suggestive features are those disclosing the changes made in an effort to improve upon the experience of the United States, only a few illustrations of which are given in this review. The study is rich in detail, carefully

documented, and filled with exhibits of legal forms and papers of interest to students of government and law. It is a contribution to historical jurisprudence.

C. PERRY PATTERSON.

University of Texas.

Education for Public Administration. By GEORGE A. GRAHAM. (Chicago: Public Administration Service. 1941. Pp. vii, 366. $3.50.)

Here are reported the results of Professor Graham's study sponsored by the Public Administration Committee of the Social Science Research Council. During 1938–39, the author visited over twenty campuses and several seats of government, conferring, observing, and interviewing. The book is divided into two parts, the first dealing with general problems, and the second describing and commenting upon the public administration programs at specific universities.

The underlying theme of the volume is the duty of the universities to teach public administration. The feasibility of doing so—a subject which led to never-ending controversy at round tables a decade ago—is not even recognized as a debatable question. Indeed, a positive and unapologetic stand for professional, and even vocational, objectives and orientation is taken. "To shy away from public service training on the grounds that it is professional and not liberal is either hypocrisy or an unconscious rationalization to justify continuing a traditional emphasis in teaching and research" (p. 16).

Five types of professional training having close relation to public administration may justifiably interest the universities. These include the existing professions, both old, such as medicine, and new, as social work; research in the natural sciences; research in social sciences; auxiliary staff agencies (note hybrid terminology); and managerial work. The latter three, and especially the last two, are legitimately within the purview of the public administration teaching programs. The curricula should probably be pointed up to preparing people for specific jobs rather than trying to train for general public administration on too broad a basis; and respect is urged for such tool courses as statistics and accounting. Teaching should be bolstered by constant and thoroughgoing research which has the enrichment of teaching materials as its immediate objective.

Those who may have hoped for an all-out plea for "back-to-the-classics" and traditional cultural courses will find no comfort in this book. A strong stand is taken in favor of embracing the dynamic world at hand through the social studies; a liberal education need not shy away from the contemporary world of affairs. Those who would establish a counterpart of the British administrative class (as recruited) will be interested in the dictum that "it would be an anachronism in twentieth-century America"

(p. 118). Yet Mr. Graham does not counsel abandoning the cultural traditions of the past. Quite to the contrary, he pleads for the unity of knowledge; but he insists that retreating from the perplexing world of today and taking refuge in the over-simplified unity of yesterday's knowledge is hardly liberal education.

The book is very well written, especially the first part, which lends itself to flowing sentences and brilliant phrasing. Indeed, the author reveals himself as a stylist of merit, an aptitude for well chosen phrases and figures of speech giving sparkle and life not ordinarily encountered in works of this nature. The result is a volume which is highly readable, yet at the same time dignified and scholarly. Would that there were more of the same in our field!

Mr. Graham has been cautious in dealing with subjects that might offend the sensibilities of his colleagues. When writing about individual universities, a critical paragraph usually follows the reporter's description of the program. The in-service institutions are commended for their laudable efforts, but certain cautions relative to maintaining standards are uttered. Some skepticism is voiced regarding the validity of the Syracuse drill in line functions in preparing for other than posts in local government (p. 52). Indicative of Mr. Graham's flair for phraseology is his reference to Harvard's "somewhat agnostic view of public administration" (p. 241).

The book is a splendid one—an achievement which alone would justify the existence of the Public Administration Committee. Every political scientist should read it.

JOHN M. PFIFFNER.

University of Southern California.

The Administration of Federal Work Relief. BY ARTHUR W. MACMAHON, JOHN D. MILLETT, AND GLADYS OGDEN. (Chicago: Public Administration Service. 1941. Pp. ix, 407. $3.75.)

This scholarly, well-written volume is a distinguished addition to the series of Studies in Administration currently sponsored by the Committee on Public Administration of the Social Science Research Council. The most complete account of the federal work relief program which has thus far appeared, it sheds much light upon the numerous and complex problems involved in this greatest civil undertaking of government.

Following a brief introduction outlining the scope and administrative significance of federal work relief, the authors trace the steps leading to the establishment of the Works Progress (now Work Projects) Administration in 1935. This is unquestionably the best part of the book. Three excellent chapters show how the confusion and the uncertainty that prevailed in the preliminary planning and legislative stages of the program were carried over into its administration. At the outset, the organizational

and functional pattern was uncertain and there were no clearly defined objectives. An even greater handicap was the "atmosphere of impermanence" produced by the current belief in Washington that the W.P.A. would be a temporary enterprise with no more than a one- or a two-years' lease on life. And, as the authors demonstrate, constant improvisation and the persistent refusal of congressional and administrative leaders to come to grips with the fundamentals of the relief problem have continued to be the greatest obstacles to effective operation of the program.

Part III deals with problems of central management, especially those of project planning and approval, work relief wages, administrative research, and finance. Part IV, "Management within the W.P.A.," analyzes problems of internal organization, central control over the regional and state offices, and public relations. An especially interesting chapter considers the rival claims of specialist and administrator, and suggests that in a large operating agency these can best be resolved through a scheme of dual supervision that provides separate lines of technical and administrative command leading to and integrated at the top of the organizational hierarchy. The final section of the book examines the various administrative relations of the W.P.A. with state and local relief agencies, and with such federal agencies as the National Youth Administration, Farm Security (formerly Resettlement) Administration, United States Employment Service, Bureau of the Budget, and the General Accounting Office.

Four main conclusions regarding the proper rôle of the President in the operation of a multiple program like the W.P.A. are particularly significant. "First, that to have the President as a directing head of a program is not a desirable arrangement. Second, the conditions that force the President to assume chief administrative direction of an enterprise can be largely avoided if purposes are planned and defined. Third, the Presidency as an institution, however, must provide the means for periodic reassessment of policy. Fourth, the Presidency must furnish the supervision of the interrelationships among agencies that inevitably arise, no matter how decisive may be the original delegation of authority made possible by good initial planning."

The authors are "friendly critics." While they reveal many errors and mistakes made by the W.P.A.,they write glowingly of its virtues and accomplishments. They paint the picture of an agency that has achieved success despite tremendous handicaps. Their inquiry is confined to problems of administration, yet one cannot fail to detect an undercurrent of whole-hearted approval of the fundamental policies embodied in the federal program. Their disposition is to defend or condone most of the administrative shortcomings and to minimize the importance of adverse criticism. Two basic considerations, for example, are not adequately treated. These are, first, the harmful effect upon individual morale induced

by long-continued employment on public work relief projects, and, second, the thesis advanced by many students of public welfare that work relief should be made an integral part of a permanent federal-state relief system. It is difficult to see how the authors could have treated a subject of such vital public interest in an entirely neutral fashion, and it is no reflection upon their competence as scholars to point out that whether the present federal policies are sound is a question on which there is a great difference of informed opinion.

PAUL T. STAFFORD.

Princeton University.

Problems of Administration in Social Work, 1940. By PIERCE ATWATER. (Minneapolis: University of Minnesota Press. 1940. Pp. v, 319. $3.50.)

The Public Welfare Administrator, 1940. By ELWOOD STREET. (New York: McGraw-Hill Book Company, Inc. 1940. Pp. vii, 422. $3.00.)

Civil Service in Public Welfare, 1940. By ALICE CAMPBELL KLEIN. (New York: Russell Sage Foundation. 1940. Pp. v, 444. $2.25.)

These three volumes—all published within a few months of each other—indicate the growing interest in the application of sound administrative organization and practice to new fields of public policy. The great expansion of governmental activity in the field of social welfare and security in the last half-dozen years has not merely modified public policy in response to new attitudes and interest in the body politic; it has created as yet unfullfilled demand for trained professional personnel, and for adequate administrative staff supervision.

Mr. Atwater's *Problems of Administration in Social Work* is primarily an exploration of administrative problems in private welfare. Although he deals specifically with the field of private social work, the principles which he examines and appraises are essentially those of sound public administration. He covers four broad areas: problems of the executive (which include relations of the executive to the staff, and to governing boards and to the community); day-to-day administrative problems (personnel, fiscal, and office management); broad problems of administration (including central planning and research, public relations, and money-raising campaigns); and field training for administration. The study is designed to give sound working rules on the administrative questions discussed. Theory is applied to practical problems rather than analyzed abstractly.

Mr. Street's *The Public Welfare Administrator* covers many of the same problems from the point of view of the public welfare services. The executive's position in relation to policy-forming agencies is not, after all, very different in public and private welfare activity. Mr. Street does not discuss in any detail the relations of public welfare administration to

legislative bodies. What he does, however, is to indicate and illustrate how sound administrative practice within the public welfare agency will affect general community attitudes—which in turn will be reflected in legislative policy. He examines with particular emphasis internal administrative problems of personnel, finance, and over-all management. Designed primarily as a textbook, the volume is none the less a valuable contribution to an understanding of effective administration of an expanding field in which government, as Mr. Street points out, will increasingly participate. He emphasizes the fact that in this expansion public welfare agencies are inevitably geared to other public services and must relate themselves to the whole fabric of government if they are to be truly effective. As he puts it: "Public welfare is part of the mosaic pavement of government which must be smooth, all-covering, and properly maintained for the support of the needs of all citizens."

Miss Klein's *Civil Service in Public Welfare* covers a narrower segment of the field in greater detail but with no less clear a perspective on the problem as a whole. Her study is the first comprehensive survey of civil service principles and practices as applied to public welfare. Her book is replete with case studies of actual personnel and organizational problems and gives a definitive picture of legislative and administrative action in Washington and in the states to 1940. She treats with urbanity and insight such problems as drafting and scoring written tests, conducting oral examinations, as well as more general problems of personnel organization such as recruitment, classification, service ratings, and in-service training. It is a volume which should be in the library of every public administrator, whether or not in the welfare field. It is, indeed, one of the most significant studies of recent years in the whole field of personnel management.

PHILLIPS BRADLEY.

Queens College.

New Directions in Our Trade Policy. By WILLIAM DIEBOLD, JR. (New York: Council on Foreign Relations. 1941. Pp. x, 174. $2.00.)

One of the most stimulating studies of United States trade policies yet to appear is this volume, with 145 pages of text, appendix, critical bibliographical notes, and a formal bibliography. Without sacrificing standards of scholarship, the author makes his subject as refreshing and as timely as a morning newspaper. While it is primarily a study of war's impact on our previous peace-time trading policies, Mr. Diebold does not neglect future problems: continued aid to Britain; checking Japanese aggression; economic defense of Latin America; and what may be expected in the event Germany wins, if there is a stalemate, or if Britain is victorious. In conclusion, he considers without too much wishful thinking the future of liberal commercial policies.

This makes rather gloomy reading for economists of the free trade

school. The United States has traditionally adhered to liberal trading practices, protective tariffs being regarded as liberal when compared with the customary practices of today. "Yet, by raising its high protective tariff to even higher levels in 1930, it incurred some of the responsibility for the adoption of quotas, exchange control, compensation agreements, and other unliberal trading practices against which it has protested. In actively promoting in 1934–39 the Hull program, we are striving to restore in world trade the liberal policies to whose destruction we had previously contributed. Even after the war began, we sought to retain our own liberal policy regardless of what the rest of the world might do. Then our own interest in the war's outcome led this country to give up and adopt economic controls similar to, but milder than, those of the belligerents. The problems of the post-war world will be ours as well as theirs" (p. 141). This we cannot escape.

The usefulness of commercial policy as a weapon of diplomacy will make governments reluctant to give up war-time powers in the commercial field. The demobilization of armies, the industrial transition from war to peace, the reconstruction, and all the government problems incidental to these, will prolong measures of economic control. They may well become permanent. Vested interests grow up adapted to the conditions of the control and fearing any change. It is difficult to alter one part of the economic structure without making changes in many other parts. "These bars to a return to liberalism will be reinforced by the factors which have made for a steady increase all over the world of government intervention in economic processes . . . " (p. 142).

Just how far these controls of foreign trade are likely to go in the matter of producing domestic controls necessary to back them up, the author does not venture to state positively. But he faces squarely the fact that the problem exists. He quotes G. D. H. Cole, as a spokesman for the increasingly more potent labor force in England: "War is bound to strengthen very greatly the tendencies making for centralization and for public control of our resources both of man-power and of capital equipment." The United States may not only be compelled to give up hope of continuing a policy of pure liberalism in the field of foreign trade, but may also have to resort to measures of control of domestic markets as a necessary incident to her diplomacy. In a world where most other national economies are controlled, it would be hard to make a liberal trade policy work. In the words of Eugene Staley, "People have 'caught on' to the fact that market decisions are social decisions; they will not be inclined to accept them in the future as they accept the weather. Whether we like it or not, many economic decisions from now on are going to be arrived at by political processes."

JOHN DAY LARKIN.

Illinois Institute of Technology.

The Regulation of Pipe Lines as Common Carriers. By William Beard. (New York: Columbia University Press. 1941. Pp. vi, 184. $2.00.)

This study was presented as a doctoral thesis at Columbia University. The book is a factual study, with some interpretation on the part of the author, in the manner common to doctoral dissertations. It seems to be carefully done, and deals with a subject of increasing importance, as is attested by the news releases (June, 1941) current at the time the volume came into the hands of this reviewer. Pipe lines as a device for transporting fluids and gases to the Atlantic seacoast have come to be of special importance with the development of the program of national defense.

In the course of his study, Professor Beard has found that pipe lines were impressed by legislation, federal and state, with the legal characteristics of common carriers, as a result of monopolistic practices in certain fields of business, such as the oil industry. The independents sought legislation of this character in order to gain access to markets. In his third chapter, the author surveys the extent to which pipe lines have been declared to be common carriers, and explains why some types of lines, such as gas lines, have not come under such regulation as much as others, such as oil. Succeeding chapters deal with the familiar public utility topics of rate regulation, service regulations, control over affiliations, and regulation as a phase of general public utility regulation in the transportation field.

In his summary and conclusions, Professor Beard points out that regulation of pipe lines may proceed upon either of two theories: (1) that of transportation, or (2) that of an accessory to the particular mineral industry involved. The author is of the opinion that in the interest of the "national economy" the second is the more appropriate. A number of pages are devoted to the thesis that federal and state regulation of pipe lines as common carriers has failed to stabilize the oil business, to give the small man a chance, to make the oil business competitive, and to bring forth either private shipper complaints in sufficient number or regulatory commission investigations in a stringent enough manner to enable the author to say that regulation has been a success. Apparently Professor Beard at this point has relied upon formal investigatory materials found in public documents, for the most part, and his chapter presents no independent investigation of his own aside from these. No evidence is presented for his thesis that private shippers are dissatisfied. No doubt they are dissatisfied, but in a research job like this one expects to find some evidence presented or referred to. This reviewer gained the impression that Professor Beard is rather of the opinion that regulation failed to accomplish that which everyone knows it never was intended to accomplish, and that therefore something is wrong. To make a pipe line a common carrier was never intended to solve all the problems of the fluid mineral industries.

This comment may be somewhat unfair to the chapter under review, but the fact remains that the author leaves the distinct impression that the transportation theory is wrong because it treats pipe lines as transportation agencies, which they are in theory and in fact. To be sure, Professor Beard points out that pipe lines are dealt with as one phase of the national transportation system, and he seems to think that this is wrong; but again, he offers no evidence to support the implication. Why should they not be dealt with as part of the entire transport problem? The chapter contains no answer. It is merely assumed that this is the wrong approach.

Following these pages, a section is devoted to government ownership. What government ownership has to do with either of these theories is not made clear. A number of technological differences between pipe lines and railroads are enumerated, and the point is made that the rates on pipe lines are usually too high to stimulate competition in the oil industry. But the question really seems to be whether this, when balanced over against the interests in maintaining transportation as a whole, is desirable? The answer to this question is assumed, but not argued or supported. From page 160 to the close of the chapter, the "nigger begins to come out of the woodpile." In these pages the idea is developed that the trouble is not with regulation so much as it is with the mineral industries. The government should compel these industries to be conservative instead of wasteful, integrated in large combinations instead of divided into small and ineffective competitors of the monopolies, and Professor Beard seems in these pages to express the belief that much of the difficulty would evaporate if instead of calling pipe lines common carriers (public utilities) they were called businesses affected with a public interest as part of the mineral industries (public utilities)—that is to say, that if only the whole industry could be called a public utility, then all the shortcomings of public regulation would disappear or at least be minimized. From this point onward, the argument runs smoothly and is very convincing. It is that the trouble with regulating pipe lines as common carriers is that they alone of the processes in the extractive industries are subject to really effective governmental control.

This reviewer has no doubt that more effective regulation of the mineral industries could be achieved if the mineral industries were regulated more effectively than they are, but he doubts that this is a proof that the common carrier feature of pipe lines has proved the failure of regulation of pipe lines. In other words, the thesis is a good one on the subject of pipe lines as common carriers up to the chapter on conclusions, but from that point on the book has little to do with the title. This does not mean that the concluding chapter is not a good chapter, after a fashion, but it is the beginning of another book, and the concluding chapter of this book still

remains to be published. It were as if the Temporary National Economic Committee had written the conclusion and said, well, it is true, even though it does not fit here.

The reviewer would be unfair if he did not close on a more encouraging note. Professor Beard has done a useful piece of work; but he has illustrated how far both engineers and political scientists must travel before a unified work in the field of technology and social science can be written. The author is to be commended for this beginning, but it is definitely only a beginning.

OLIVER P. FIELD.

Indiana University.

One Thousand Strikes of Government Employees. By DAVID ZISKIND. (New York City: Columbia University Press. 1940. Pp. 259.)

The straightforward repertorial analysis of Dr. Ziskind creates a solid and well-rounded picture of where strikes of government employees have occurred, when they have occurred, who participated, and the relative success attained by the strikers. In collecting and organizing the mass of information in the volume, the author has made a significant contribution. The serious limitation upon the data relating to most of the strike situations has prevented critical illumination of why strikes occur, beyond the obvious wage difficulties, hours of employment, and recognition of unionization and collectivist bargaining power, etc. Only summary attention is given to the merits or defects of methods of overcoming the situations likely to produce the psychological setting behind a strike. How strikes can best be prevented or handled administratively is beyond the scope of the survey.

Dr. Ziskind recognizes special indebtedness to members of the Johns Hopkins University faculty of economics, under whose counsel the work was prepared. As a natural consequence, the economic aspects of the government strike have been emphasized in the data collected. From the perspective of a political scientist, the study is less complete than would seem essential to warrant far-reaching evaluations. The problem of the stability and security of the instrumentalities of the state is not the key to the approach. Rather is the emphasis upon the similarity of the governmental and private employment situation. "Government strikes should be recognized as the normal results of existing maladjustments in public employment. . . . In the absence of more satisfactory methods of adjusting labor difficulties, strikes must be expected to occur again and again." As a matter of record, the list of 1,116 government strikes reported in the study is "incomplete, and the number of government strikes is steadily increasing." Strikes, in the outlook of Dr. Ziskind, have been among the growing pains of democracy; and as the spirit of democracy increasingly

permeates the employer-employee relationship in government service, occasions for them may be expected to diminish.

The facts surrounding government strikes are presented in accordance with a pattern facilitating the book's use in administration courses. The classification employed closely parallels the "functional," or departmentalized, approach now in vogue. The volume is safeguarded by a series of definitions and a statement of objectives. Unfortunately, many of the key words basic to the final chapters on interpretations and conclusions are not included in the prospectus; but otherwise the body of the study is clarified by careful definitions of basic words used. The final chapters on causation of strikes, attitudes of employees, "management," and public utilities seem somewhat casually done, and the chapter on techniques of government strikes and settlements is brief and insubstantial. The brief treatment of legal aspects appears at the end and really is nothing more than an appendage to the study, not being in the nature of data treated in the main body of the analysis and not integrated with it.

SPENCER D. PARRATT.

Syracuse University.

Insurgency; Personalities and Politics of the Taft Era. By KENNETH W. HECHLER. (New York: Columbia University Press. 1940. Pp. 252. $3.00.)

This study, says the author, aims "to appraise the historical and geographical roots of the congressional insurgency of the Taft administration; to analyze the rise and development of insurgency in connection with the principal public issues upon which it manifested itself; and to describe the personalities, organization, and tactics of the insurgents and their opponents." The author has been more successful in his second and third objectives than in his first. He has written a lively, penetrating essay on the personalities and the parliamentary tactics of the insurgent movement. With an unusual flair for recreating the heat and drama of legislative conflict, he develops the fascinating story of the eventually successful attack by the forthright and determined leaders of the Middle West upon the arrogant, self-confident leaders of the House and Senate machines.

But insurgency is not adequately explained by parliamentary tactics, however competently described. Political insurgency in the Taft era was the reflex of a more basic economic and social insurgency. This is recognized by the author, but political insurgency interests him the more. There is a consequent loss of perspective: the personal equation and the intricacies of parliamentary tactics overshadow the impersonal forces of freight rates, interest rates, corn and wheat prices. The author does not, for instance, seem to perceive that the insurgent fight for democratic procedures in elections and in Congress was an advance skirmish in the campaign

for economic parity for agricultural, and to a lesser extent for labor, interests. Nor is there any indication that he has used the observations of Turner and Holcombe on sectionalism in understanding the economic and geographical roots of insurgency.

Within its frame of reference, the narrative is characterized by competent scholarship and effective presentation. The author has a sound comprehension of the use and quality of original source materials. His evident industry and energy have unearthed many previously untapped collections, among which his discovery of the invaluable Bristow papers deserves special commendation. The result is an analysis rich in significant detail and the most satisfactory history of the congressional aspects of insurgency available.

WALLACE S. SAYRE.

New York City.

BRIEFER NOTICES

AMERICAN GOVERNMENT AND POLITICS

Woodrow Wilson; The Fifteenth Point (Lippincott, pp. 365, $3.00), by David Loth, is a contribution to political science. It is a psychological study in political leadership, and while the historical facts covered in the biography present nothing startlingly new, the book shows how the moulding of world events by Wilson was the inevitable result of his personality, which Loth calls the fifteenth point of his peace program. The first part of the book is a penetrating study of the temperament and character traits of Woodrow Wilson, beginning with the influence of his father in the home; the second part deals with the effect of this personality upon the domestic and foreign policy of the United States during Wilson's career in public office. In the kaleidoscopic series of pictures, one sees the development of the Wilsonian traits and capacities. One marvels at the unfolding of a tremendous intellect, the forming of ideals of democratic government, the search for truth. Here is the research student whose aversion to compromise of principle stems from his conviction that his ideas are right. Mr. Loth shows the perseverance of the man, his indifference to hardship and physical discomfort, his frail physique. One sees in his struggle to democratize Princeton University his devotion to a cause, his willingness to sacrifice personal advancement and comfort to his idealism. His fight with political bosses while governor of New Jersey shows the practical unfolding of his ideas on representative government. To him, the presidency was an opportunity to work out his domestic ideas, but this he was not permitted to do because of the urgency of international problems, for the settlement of which he was unprepared by training. The last phase of the Wilson ideology was concerned with the attainment of world peace. Here one appreciates the sincerity of his conviction that a dictated peace can

only bring disaster in its wake, and his reluctance to involve the United States in a war, because he knew that "however necessary it was, war would always be just stench and blood and hatred and terror." About half of the book is devoted to the events leading to and following the first World War, and the whole represents a timely arrival at a point where again the world is wondering what the basis of a lasting peace might be. Mr. Loth had access to new material in the unpublished letters of President Wilson.—ELIZABETH WEBER.

A trained historian seldom finds himself an ambassador in a critical period. William E. Dodd did so, and he took full advantage of the opportunity, while ambassador to Germany from 1933 to 1938, to leave a careful record of what he observed. *Ambassador Dodd's Diary* (Harcourt, Brace and Co., pp. 464, $3.50) has been well edited by his children, William E. and Martha. They have not deleted his sharp comments about many people still living—people whose activities need to be better understood in this critical time. There is, for example, the record that Senator Burton K. Wheeler talked like a National Socialist at a dinner on February 1, 1935, advocating German domination of all Europe (pp. 212, 342). In Dodd's day-by-day record of events, he was never fooled about the direction in which they were running. From the very start, he saw where Hitler was headed, and, as the evidence mounted, he continued to give, occasionally, historical addresses in which he upheld the liberal-democratic way of life which the régime was bent on destroying. There were, of course, those who thought that Dodd should have conformed more to the madness which was raging about him, but most readers will approve his steady refusal to be more than formally correct in his relations with the régime, especially with the Nazi party. No one has given as good a picture of the sham and extravagance of the diplomatic world. Dodd insisted throughout on judging its grand shows on the basis of whether something worth while had been said, and was seldom able to record anything. The abundance of real history in the book came mostly from his informal contacts. One gains the feeling that many of our own permanent foreign service men are quite willing to join the social whirl. Dodd charges repeatedly (pp. 93–94, 135, 300–01) that a clique of wealthy sons in the State Department exercises favoritism in behalf of their set, and he noted that after three years many of his subordinates in the embassy became only half-opposed to Nazism (p. 348). Needless to say, Dodd did not; he remained a staunch democrat to the end. The diary is an interesting and significant story of the plunge of the aggressors toward world power, and is an essential book for students of diplomacy and of recent history. The volume opens with a gracious and thoughtful introduction by Charles A. Beard.—DENNA F. FLEMING.

Although government deficit spending is a subject of timely interest to many students of government, Henry H. Villard's *Deficit Spending and the National Income* (Farrar and Rinehart, pp. xviii, 429, $3.50) is not, on the whole, a book for political scientists. It is addressed in economic terms to an appraisal of deficit-creating governmental expenditures incurred during the decade 1929–1939, as a means of (1) reducing the severity of cyclical fluctuation, (2) promoting recovery from a severe depression, and (3) curing secular, or prolonged, stagnation. The author makes two distinct analyses of the case for deficit spending, one theoretical and the other statistical. His theoretical analysis, composed largely in the esoteric language of recent business cycle literature, involves extended discussions of (1) current controversies over the forces which activate the business cycle (Chapters V through VII) and (2) the theoretical effects of public net-income-increasing expenditures on which the success of deficit spending depends (Chapters IX through XVII). A chapter (XXII) is devoted to the relation between public works, public expenditure, and federal aid to localities. Arguing (pp. 67–75) that the crucial factor in the promotion of recovery is the relation of investment opportunities to savings which might go into capital balances, the author contends (Chapter VIII) that the case for deficit spending is theoretically sound both for promoting recovery after a major depression and for reducing the severity of the business cycle. He is not satisfied, however, with the case for deficit spending as a cure for secular problems, for as he later suggests (p. 367), it involves an undesirable increase in the public debt. His statistical analysis (Part III) fails to give conclusive support to the case for deficit spending. He doubts, moreover (p. 362), if the effort to improve statistical techniques "is likely to be the most fruitful direction for further research." Although admitting that deficit spending in recent years has failed to bring about full recovery (p. 366), he argues that recent experience is inconclusive because of the presence of a secular as well as a cyclical problem. Since, as he states, "we really know very little from the experience of recent years about the rôle that might be played by deficit spending in reducing cyclical fluctuations. . . . " he returns to his original theoretical position. Thus his main conclusion (p. 367) that "cyclical deficit spending . . . is eminently qualified as a device for evening out the fluctuations in investment which we have suggested are the main cause of cycles when there is no secular problem" is merely a repetition of his original contention, based entirely on theoretical assumptions.—DANIEL T. SELKO.

Erik McKinley Eriksson's *The Supreme Court and the New Deal* (Rosemead, Cal.: Rosemead Review Press, pp. viii, 252, $2.00) purports to summarize the decisions of the Supreme Court in 112 cases having a "direct relationship to New Deal measures or policies." The author an-

nounces at the outset that no attempt is made to analyze these decisions "critically," although a lengthy introductory chapter essays a cursory survey of the legislative history of the New Deal, and a brief concluding chapter hazards a few generalizations. The various cases are grouped according to subject-matter in chapters dealing with the recovery program, financial relief, social security, reform, labor, and foreign relations. One method of exposition is rigorously followed. First, the full title of the case, including all the *et alias*, is stated in the text. Then the facts, as stated in the opinion, are summarized, including careful reference to such minor points as the precise number of trade union locals. Then follows a statement of how the judges voted. Finally, lengthy quotations from the controlling, concurring, and dissenting opinions, generally without any attempt at interpretation, are set down. This method of legal exposition, whose implements are the shears and the pastepot, Justice Cardozo once aptly described as the "tonsorial" or "agglutinative." Some of the "critical" analyses attempted may be seriously questioned. Thus we are told that the Administration could have continued to enforce the N.R.A. codes, even after the Schechter decision, because the statute contained a separability clause (p. 51). The reader is assured also that President Roosevelt's criticism of the Court of 1935 and 1936 was "extraordinary" and presented only "a partial view," another view being that the Court's decisions were "inevitable" because the measures invalidated were in fact unconstitutional (p. 201). There are other question-begging generalizations in the concluding chapter, such as the assurance that the idea that justices vote in accord with their former political, economic, and social interests is "pure political buncombe" (p. 208). After regaling the reader with a number of similar observations, the author finally computes the total score for each justice—a treatment which suggests once more the very serious limitations of the quantitative method in a study of such a complex phenomenon as a Supreme Court justice. The appendices contain a good list of cases conveniently classified and a useful bibliography.—DAVID FELLMAN.

In a second edition, Dr. Wilson G. Smillie's standard work, *Public Health Administration in the United States* (Macmillan Co., pp. xiv, 553, $3.75), has been enriched and brought to date. Noticeable is the tendency to include greater guidance to the technical administrator, i.e., a description of how to perform the Schick test, how to prepare a Wilson-Blair bisulphite agar plate to detect typhoid carriers, how to control anapheles, as well as help in identification of additional diseases having public health importance. More space is devoted to venereal diseases and their control. Two appendices—one on the educational qualifications of health officers and the other offering suggestions for a two-foot reference shelf for local

health department personnel—add significantly to the volume. From the viewpoint of a specialist in public administration and enforcement processes, the volume appears to over-emphasize substantive standards and to pay too little attention to how these standards may best be put into operation. The administrative processes, i.e., the licensing, ordering, educational, or persuasive activities of those responsible for the execution of the standards in actual situations seem somewhat slighted. Problems of relationship of health administrators to police and prosecutors; the principles governing the preparation of hearings; and the combining of attainment of high standards of public health with maximum respect for individual interest and rights are not brought into perspective as fully as they might be if the adjective aspects of health administration were given equal prominence with the substantive standards. Some chapters indicate a tendency in the direction of greater attention to administration as process. Particularly should be noted those on appraisal of public health activities, the training of public health personnel, and on budgets and budget-making. But these point particular attention to the internal interrelationships within health departmental administration rather than to the processes and principles governing administration and citizen.—SPENCER D. PARRATT.

In his comprehensive study, *Organized Anti-Semitism in America; The Rise of Group Prejudice during the Decade 1930–40* (American Council on Public Affairs, pp. 191, $3.00), Dr. Donald S. Strong covers 121 anti-revolutionary, anti-semitic organizations that have appeared in the United States during recent years. With the objective approach of the scholar, the author devotes the first two chapters of the volume to a survey of anti-semitism throughout the world and in the United States. This is followed by a detailed examination of the history, leadership, channels of propaganda, membership, and source of income of the eleven most important organizations and general observations on the operations of all 121 groups. The usefulness of the monograph has been enhanced by the inclusion of eleven excellent tables and full bibliographical notes. On the debit side, the absence of an index should be noted. The author observes that these 121 organizations "are far less formidable than they seem to be; many of them consist merely of a fanatic and a letterhead." However, students of propaganda are well aware that fanatics and neurotics can be effective propagandists. The validity of the author's conclusions cannot be challenged, i.e., that the future of anti-semitism in the United States will depend upon the following five important factors: periods of economic depression; war, threats of war, or any other event that results in an intensification of nationalism; growth of a strong revolutionary movement

or widespread publicity for what is alleged to be a revolutionary movement; rise to power of an anti-semitic political party in a foreign country; prosperity and international prestige of those countries that have adopted anti-semitism as part of national policy. Even with Hitler defeated, post-war conditions may result in an intensification of anti-semitism. In publishing this volume, the American Council on Public Affairs has lived up to its purpose: "dedicated to the belief that the extensive diffusion of information is a profound responsibility of American democracy."—BELLE ZELLER.

The tax system as a positive control over the concentration of economic power is the central theme of *The Taxation of Corporate Enterprise* (pp. xii, 216), Monograph No. 9, Investigation of Concentration of Economic Power, Temporary National Economic Committee. This significant report is based on the accepted philosophy that a "tax system is at once a source of public revenue and a technique of governance." Despite the traditional maxim that "taxation for revenue only" is best, the T.N.E.C. proceeds on the theory that the problems of taxation are not exclusively problems of revenue, but are problems of government and its relationship to economic enterprise. The report affirms that no tax system should work at cross purposes with the objectives of the community, but rather should contribute to whatever objectives the community has set for itself. The report contains a mass of statistical data on federal, state, and local taxation of corporate enterprise. Much of the information is presented in graphic form, and these charts, together with the numerous tables, should be interesting and useful alike to the student of government and taxation and to the citizen. Aside from the rather comprehensive treatment of the fiscal problems involved in the taxation of corporate enterprise in the United States, the report is especially significant in its treatment of the social and economic aspects of this problem. Paramount among these non-fiscal *desiderata* of a "good" tax system within a democratic framework, the report gives attention to the following: (a) the discouragement of idleness, whether of men, machines, or money, and conversely, the encouragement of full employment and utilization of resources; (b) the preservation of opportunity; (c) the curbing of monopoly, or at least the profitable fruits of monopoly, possibly including the simplification of corporate structures, and conversely, the checking of holding companies and related forms of intercorporate affiliation; and (d) the support of persons in need by relieving the tax burden on persons in the lowest income brackets. The report recognizes that these social and economic objectives are often in conflict with fiscal policies. It offers no simple and final formula for the solution of the problem, but rather attempts to strike a balance between social objectives and fiscal needs.—JOHN W. MANNING.

Those familiar with former editions of *The Municipal Year Book, 1941* (International City Managers' Association, pp. x, 662, $5.00), edited by Clarence E. Ridley and Orin F. Nolting, know that it is indispensable for those actively working in the field of municipal government and administration. The eighth edition is no exception. As the subtitle of the book states, it is an "authoritative résumé of activities and statistical data of American cities." Each year this handbook is improved by the addition of new sections or the expansion of old ones. The 1941 edition has population data based on the 1940 census, and 234 cities have been added to the data for cities of over 5,000 population. New or additional material is included on municipal and terminal airports; financial statistics for the larger cities; sewer rental data; municipally owned electric plants; and statistics on municipal health departments. The book is divided into five parts: Governmental Units; Municipal Personnel; Municipal Finance; Municipal Activities; and Directories of Officials. The editors have been quite successful in arriving "at some standardization of content, while at the same time retaining sufficient flexibility in subject-matter to reflect the changing emphases in municipal problems." The summary articles on 1940 developments were prepared by the editorial consultants of *Public Management* and are excellent introductions for the numerous and detailed tables, giving the reader an up-to-date insight into municipal activities and functions. The editors have made every effort to make the book usable. A section, "How to Use the Year Book," explains the contents and the arrangement of materials and makes suggestions regarding the use of statistical data.—KENNETH P. VINSEL.

Recent case histories in council-manager government are *City Manager Government in Berkeley* (Public Administration Service, pp. iv, 70, $0.50), by Arthur Harris, and *City Manager Government in Dayton* (Public Administration Service, pp. iv, 64, $0.50), by Landrum R. Bolling. Sponsored by the Committee on Public Administration of the Social Science Research Council, investigations were conducted "on location" as part of a nation-wide survey covering the operation of this type of urban government during its first quarter of a century of existence. Previous political and administrative experiences in Berkeley and Dayton are described as necessary background for the functioning of the new order introduced with the advent of a manager. Both had distinguished executives: Dayton, in Waite and Eichelberger; Berkeley, in Edy and Thompson. Berkeley's experience was peculiar in that many councilmen first came to office through appointment to vacancies. In the period between 1923 and 1938 covered by Mr. Harris, relations between the council and the manager were prosaic, and the plan was never threatened. Police and fire departments accomplished improvements. Coördination among municipal de-

partments was fostered, and agencies such as the public schools entered into closer over-all collaboration. In the auxiliary, technical services, including budgetary control and purchasing, Berkeley chalked up advances. City management here became the whetstone for sharpening the edge of municipal efficiency. The switch to council-manager government in Dayton brought a psychological turning-point which was more pronounced than was the case in Berkeley, where the preceding commission system had served the city fairly well. After getting over the hump in 1914, Dayton reverted some years later to a more political type of representation on its council than in Berkeley, and its citizens fell into a mood of complacency. Almost every election brought to power at least one councilman anxious to set the city's political house in order as he viewed it, even if it meant changing the manager. Manager Eichelberger—champion long-term manager of Dayton—showed capacity for taking the opposition into camp. In spite of these handicaps, line departments improved and extended their services, and housekeeping activities improved. Into both of these episodes of the council-manager chronicle enter factors of personality and politics as well as hard and fast results. Much space is devoted to local color, with some lack of emphasis upon the administrative process. Interesting as the ins and outs of the case histories may be, the outsider will nevertheless form his judgments on objective aspects of the record. To see the council-manager system in the large as it will be seen a century hence, it must first be examined and recorded by the laboratory method. In these monographs two experiments have been well recorded.—A. W. BROMAGE.

In Tax Barriers to Trade (Tax Institute, pp. viii, 344, $2.50), a noteworthy contribution is made to the literature on trade barriers among the states. The book is the product of a two-day symposium conducted by the Tax Institute (formerly Tax Policy League), at Chicago, December 2–3, and reproduces the addresses of twenty-nine distinguished students of the general topic. The foreword is by Dr. Mabel L. Walker, director of the Institute. A general introduction is contributed by Mark Eisner, chairman of the symposium committee. The volume is divided into six parts: (1) "The Menace of Tax Barriers to Trade"; (2) "Highway Trade Barriers"; (3) "Commodity Trade Barriers"; (4) "Marketing Trade Barriers"; (5) "Tax Barriers to International Trade"; and (6) "What Can be Done about Trade Barriers"? The book contains an index and a well-rounded bibliography. No barrier to trade seems to have been overlooked. Every impediment to interstate trade receives full attention and is discussed frankly from many points of view. There is substantial agreement on the advantages of free trade among the states and the evils of legislative and administrative acts which restrain that trade. Brought to light

is the fact that trade barriers are disappearing at a rapid pace through the efforts of the Council of State Governments and its affiliated organizations, the federal government, and the governors and legislators of a number of states. The general public has also interested itself within recent years and has brought the force of public opinion to bear against present and pending legislation on the subject. It is significant that no additional trade barrier acts of any real importance were passed by the state legislatures in the sessions of 1939 and 1940, and that many statutes were repealed or modified; and altogether it is apparent that progress is being made toward the reëstablishment of a free trade area in the United States.—CHARLES J. ROHR.

For those who, like this reviewer, had until the outbreak of the present World War expected from the enlightened international economic policies sponsored by Cordell Hull much larger benefits than were realized, Grace Beckett's study of *The Reciprocal Trade Agreements Program* (Columbia University Press, pp. xv, 142, $2.00) will be both useful and welcome. Based on a doctoral dissertation written at the Ohio State University, this volume discusses the considerations and precedents leading to adoption of the program, describes the principles and procedures followed in negotiating agreements, analyzes the concessions obtained and granted by the United States, and concludes with an appraisal of the significance of the program for American foreign trade through the year 1939. How to secure material concessions on the exports of one's own country without at the same time granting reductions on imports on a scale likely to cause dislocations in the home economy, and meanwhile to insure that the indirect effects of any bilateral pact on the total movement of world trade will be of salutary character—this is a problem of vast complexity; and Miss Beckett throws a strong beam of light upon it. To understand the use of the chief supplier principle, the importance of reclassifying products in the paragraphs of a tariff schedule, and the ways in which most-favored-nation treatment must be planned with reference to the allocation of quotas, changes in systems of internal taxation, and the control of foreign exchange, is to appreciate the severe limitations within which the whole program has had to operate. There is real merit in the closing section in the care taken to make clear the assumptions on which statistical measures of the effects of the program are made to rest. Positive gains have not been great, but "as a stop-loss device, the program has been important."—JOHN A. VIEG.

The familiar theme of the trend toward concentration of power in the American national government receives the attention of Naresh Chandra Roy in *The Federal System of the United States of America* (University of

Calcutta, pp. xii, 308). Beginning with an account of the circumstances which gave rise to the American plan of federalism, the author surveys and analyzes the factors responsible for the rise of national authority at the expense of state power. To illustrate current practice, chapters near the end are devoted to the National Labor Relations Act, the Social Security Act, and the federal grant-in-aid system. Although he emphasizes the importance of the expanding powers of the central government, the author is not convinced that local particularism is dead in the United States. He believes that the American governmental system will continue for some time essentially federalistic in character. Significant indices of future trends are seen in the newer techniques of national-state and interstate coöperation. While the book does not present ideas that are new or distinctive, and in some respects is even elementary in content, it provides the general student with an interesting survey of the development of the theory of American federalism.—JOSEPH E. KALLENBACH.

That the police patrol force, despite the tremendous innovations in police organization and operations, remains the backbone of police responsibility for "performance of the total police job" is the considered opinion expressed in O. W. Wilson's *Distribution of Police Patrol Force* (Public Administration Service, pp. iii, 27, $1.00). This excellent account of the experiment of distribution of the police of Wichita, Kansas, and San Antonio, Texas, in 1931–32, on the basis of proportionate need, deserves a careful reading by every police administrator interested in providing maximum police service at the time and in the place needed. The lack of objective standards for the determination of the size of the police force necessary for adequate service and protection and its distribution chronologically and geographically are analyzed, resulting in a suggested scheme of police manipulation so as to increase man hours in the areas of greatest hazard and during the periods, day and night, of greatest need. Certain difficulties would surely arise if such a program were adopted by the larger metropolitan departments, but the principles outlined and the experiment described offer police organizations an excellent opportunity to increase their effectiveness.—J. P. SHALLOO.

Six-Year Capital Improvement Program for Maryland (Maryland State Planning Commission, Publication No. 30, pp. 169, mimeo., $0.25) represents a joint effort of the State Planning Commission and the Department of Budget and Procurement, with technical financial assistance from the National Resources Planning Board. The objective is the improvement of administrative programming of public works on a long-time basis, and the report properly emphasizes that a capital improvement program is not only a question of what state departments need but also of what the

state can afford. The publication contains elaborate financial displays of the state's property tax revenue and debt condition, against which are matched capital improvement needs of 18½ millions submitted by departmental and institutional heads for the years 1941–47. The final program recommends a little more than nine millions, spread among the bienniums in the proportions of forty-five, eighteen, and thirty-seven per cent respectively. By reducing the state's capital needs to some definite schedule, the "feast and famine" era may be brought to a close and departmental requests coördinated into the program of the whole state. Too much emphasis can hardly be given the report's warning that the proposed program must be reconsidered and revised biennially. It remains only to see what executive and legislative attention the report will command.—HOWARD M. KLINE.

The Laws and Joint Resolutions of the Last Session of the Confederate Congress (November 7, 1864–March 18, 1865), Together with the Secret Acts of Previous Congresses (Duke University Press, pp. xxiii, 183, $2.50), edited by Professor Charles W. Ramsdell, is published in memory of William Kennedy Boyd, who assembled at Duke University the Flowers collection of source materials in Southern history. Professor Ramsdell found in the Flowers Collection ninety-two manuscript enrolled acts passed at the final session of the confederate Congress. After exhaustive research, he was able to supplement this original nucleus with the texts of the approximately one hundred missing acts, thus producing a unique and complete edition of hitherto unpublished "last laws." The result is a valuable reference work, including a useful index and a scholarly note on bibliography. It is not, however, "dry-as-dust"; the scholar with historical imagination can sense the attitude of that harried session when Congress had to provide for its own removal should "the public emergencies" make remaining "impolitic." The political scientist will be specially interested in these last efforts of civil authorities to maintain the public routine even when military defeat was imminent.—MARIAN D. IRISH.

The fact that William E. Mosher and J. Donald Kingsely have revised their *Public Personnel Administration* (Harper and Brothers, pp. x, 671, $5.00) within five years after the first edition was published reflects the rapid expansion of the merit system in recent years. This expansion has involved more than the application of the merit basis of appointment to new positions and new jurisdictions; even more striking is the broadening scope and increasingly technical character of the activities of personnel agencies. Descriptions and illustrations of the latter trend constitute a major portion of the new material found in the revised edition of the text. Only a few changes have been made in arrangement and emphasis. The

discussion of oral examinations and personal investigations has been expanded to make up a new chapter; and the public relations phase of personnel administration has been given a more thorough consideration.—EDWIN O. STENE.

Of much interest and significance to students of state and local government and administration is a publication of the bureau of municipal research at the University of Texas entitled *Units of Local Government in Texas* (Austin: University of Texas Press, pp. 221, on request). The study is a comprehensive presentation of the origin and functions of units of government in Texas, including the state itself, counties, cities, school districts, and special districts. Of particular value are the river authority maps, soil conservation maps, and the county group maps indicating in detail the various units in each county. The study is strictly informational in nature, with the exception of a very valuable discussion of redesigning the state-local pattern.—DAVID W. KNEPPER.

In *Government and Politics in Alabama* (University of Alabama: University Supply Store, pp. 210), by William V. Holloway and Charles W. Smith, we have essentially a manual of the Alabama constitution. Like the constitution of Alabama itself (which appears in full as an appendix), the manual is somewhat involved and uninspiring. It handles material fairly but factually, often with little imagination or flourish. Consequently the living, functioning government is partly obscured in spite of attempts to enliven the text by informative, often peppery, editorials from Alabama newspapers. The authors make good use of the 1932 Brookings Institution study of Alabama government.—GARLAND DOWNUM.

FOREIGN GOVERNMENT AND POLITICS

David Thomson's *The Democratic Ideal in France and England* (Cambridge: At the University Press, pp. viii, 134, $1.25) is a popularized comparative analysis of both concepts and institutions, approached historically rather than philosophically. Resemblances appear chiefly in the form of historical parallels; differences are found to some extent in ideas, but principally in political machinery. Comparisons and contrasts are presented under four headings: ministerial responsibility, separation of powers, the rule of law, and economic democracy. The author rather surprisingly concludes that France is (was) more democratic than Britain because of the greater political responsibility of her ministry to Parliament and of her Parliament to the electorate, and the greater "legal responsibility of all public authorities to the administrative courts." Burke's "lofty and seductive theories" of representation and the disciplinary

power of British party organizations over the representative receive their share of criticism. Interesting are the view that democracy is, after all, "artificial," the admission that there is no true separation of powers in Britain, and the claim that Montesquieu really advocated the "distribution" or "balance," rather than the "separation," of powers. The chapter on "economic democracy" is disappointing; it fades into generalities and platitudes. If the author's purpose was "to restate the [democratic] ideal in terms relevant to the times," he has not succeeded. This is a solid, scholarly little book, but it is scarcely likely to become a powerful weapon in the war of ideas. It is too completely historical and much too reluctant to come to grips with present realities.—CARLTON C. RODEE.

Eight studies on national trends in Canada since 1914 are incorporated in the recent volume edited by Chester Martin entitled *Canada in Peace and War* (Oxford University Press, pp. xvii, 244, $1.75). Mr. Martin's paper deals with four major factors constituting the essence of Canadian nationhood, developing their changes from the first World War to date. D. G. Creighton paints a grim picture of the federal form of government in its Canadian economic setting. The growing divergence between provincial interests is seen as the factor responsible for the lack of national integration in peace-time Canada. To support this position, Mr. Creighton cites the insistence of the province of Ontario upon the retention of the compact theory of confederation in connection with amendments to the British North America Act, and cites further the decisions of the Judicial Committee of the Privy Council upon such things as the National Minimum Wages Act, the Limitation of Hours Worked Act, and the Unemployment and Social Insurance Act. The third paper, entitled "Economic Trends," by H. A. Innis, appears to be the most thoughtfully constructed one in the set, although the chapter by Mr. Glazebrook is also to be particularly commended. Papers not here mentioned in detail, due to limitation of space, are "Population Problems and Policies," by V. W. Bladen; "Canada and the Last War," by F. H. Underhill; "Canadian and Imperial War Cabinets," by R. Macgregor Dawson; and "Democracy in the Overseas Dominions," by Alexander Brady. While many of the book's conclusions are open to question, they are nevertheless provocative and interesting.—FRANCES REINHOLD FUSSELL.

Exceptionally timely from the standpoint of present American needs is C. F. Fraser's *Control of Aliens in the British Commonwealth of Nations* (London: Hogarth Press, pp. 304, 12s.6d.). This work was carried out with the assistance of the Sheldon Fund of Harvard University and the Social Science Research Council. The book is effectively organized, with separate chapters devoted to the policies and practices regarding aliens during

the past several years in each of the countries dealt with—the United Kingdom, Eire and Northern Ireland, Canada, Australia, New Zealand, and South Africa. A final chapter surveys developments due to the present war. There is a brief bibliography, and a full table of the statutes and cases cited. Noteworthy also is the illustrative data in the appendices, comprising the texts of several of the most typical statutes and orders. The author has sought throughout the study to determine not only the law and procedure, but also the underlying policies which have been applied. The treatment, in general, comprises a systematic analysis of the statutes, orders, and court decisions which constitute the framework of alien control in each country. As regards Britain, perhaps the most striking feature is the completeness of the discretion vested in the Home Secretary in matters of alien administration. Incidentally, the author also cites various amusing instances of the characteristic conflict between that secretiveness thought by officialdom conducive to the public interest and the irritating, irreverent curiosity of the researcher—victory resting usually with the former. As regards the Dominions, the salient feature is the complicated character of citizenship, due to the historical background of the Commonwealth—first, control of immigration, even of British subjects, was devolved upon each Dominion; latterly, determination of citizenship has been similarly devolved. Actually, Britain herself is the only member of the Commonwealth which does not discriminate against British subjects coming from some other part thereof. Finally, as to the effects of the present war on the control of immigration, needless to say, any deductions would as yet be tentative.—A. GORDON DEWEY.

Regulation of Economic Activities in Foreign Countries (Washington, D. C.: Gov't Printing Office, pp. 168) was prepared by a number of government economists for the Temporary National Economic Committee. The study presents an analysis of government regulation of economic activity in Great Britain, Germany, France, Argentina, Brazil, Chile, and Mexico. The discussion concerning Great Britain is limited to the important coal and cotton industries, in which government intervention was undertaken in an attempt to adjust them to the radically altered conditions developing after the World War. Government intervention in other British industry has appeared, and it is prophesied that there will be a further extension of the movement. The section on Germany—the most interesting and enlightening in the entire monograph—is divided into two parts, one dealing with the historical development of the concentration movement in industry, and the other with regulatory experience under National Socialism. The extent of detailed government control under National Socialism is surprising. Every segment of economic activity has been subjected to government supervision, and it appears that little free-

dom of action and initiative exists. The remaining sections dealing with Latin America show how the unbalanced economies in these countries, particularly vulnerable to economic depression, has necessitated the intervention of the government. As in other countries, the depression of the thirties intensified government control in the Latin American areas.—NATHAN L. SILVERSTEIN.

INTERNATIONAL LAW AND RELATIONS

During the past few years, a considerable literature has developed around the general theme of the Axis Powers, totalitarianism, and the menace that these states and programs hold for America. If any final and convincing proof of the reality of this danger were needed—and unhappily for this country, it is needed—it may be found in Robert Strausz-Hupé's *Axis America* (G. P. Putnam's Sons, pp. xvii, 274, $2.50). The well-conceived and brilliantly executed design of the author is first to explain the basic factors of the Nazi-Fascist psychology and outlook and second, by a liberal use of source material, to show how the Nazis and their accomplices plan to destroy the United States from within, and thus secure world domination. The first object the author quickly achieves by a clear but brief analysis of the ideas of some of the older writers, such as Hegel, Treitschke, Nietzsche, Chamberlain, Gobineau, Moeller van den Bruck, and Spengler, and of the contributions of the later, more important, geopolitical school, especially Haushofer and Banse. The author's second object is attained by describing the propaganda technique of the Nazis, the strategy and tactics of infiltration, and the vantage points, both within and without the United States, from which the great attack is being launched. Especially illuminating is the picture built up by the Nazis of social and economic conflict, disunity, and moral degradation in this country. In short, the United States is regarded by the Nazi-Fascist school as being neither a nation nor a state, and as being, in consequence, peculiarly subject to destruction from within by the weapons of Nazi propaganda and the Fifth Column. The author has done his work so well that this reviewer desires merely to suggest that this amazing record might have had even more interest for intelligent and patriotic Americans had it included a few extracts to show the high regard entertained by the Nazis for certain Americans who advocate isolationist policies which, if adopted, would probably lead quickly to the results planned by the master minds of the Axis Powers.—CHARLES A. TIMM.

"America Must Fight." These three words conclude Major Malcolm Wheeler-Nicholson's *America Can Win* (Macmillan Co., pp. 246, $1.75). Starting with the assumption that an overwhelming majority of the American people support aid for Britain short of war, the author devotes

two-thirds of his study to an impressive exposition of the logical and practical weaknesses of this position. By insisting upon aid short of war, the isolationists, he asserts, are inconsistent in that "they are admitting that the British are fighting our battle." The arguments for aid short of war rest on one or more of three suppositions: (1) that, regardless of what happens abroad, we can successfully defend ourselves; (2) that aid to Britain will enable her to win the war; and (3) that Britain, even without help, will emerge as victor. Relying chiefly on non-technical language, the author makes a painstaking analysis of these premises from the standpoint of a military expert and discards each as factually untenable. This is followed by an attack upon the opinion of die-hard isolationists who hold that it matters little to America whether Britain or Germany wins in Europe. The Nazis have informed us openly that we are on their "program," and America is militarily vulnerable. The security of this nation "depends on the absolute necessity of the British Empire continuing as a belligerent." Insisting that there is no choice of war or peace, but that America must fight, the author presents what is to a layman an impressive blueprint of the military and non-military steps this country can take *now* with some guarantee of positive and effective results. The reviewer regrets that repeated lapses by the writer into a flowery, even gaudy, mode of expression detract somewhat from the strength of his book.—VERNON A. O'ROURKE.

The May, 1941, issue of the *Annals of the American Academy of Political and Social Science* (pp. 242, $2.00), under the special editorship of William P. Maddox, is given over to consideration of the problems of relationship of America and Japan. There are twenty-eight contributors writing on a wide variety of topics. The first section has nine articles, organized under the head of "Bases of Japan's East Asiatic Policies." The second section, "Factors Affecting America's Far Eastern Policies," has six contributors. There are two articles on "The Problem of Cultural Divergence" and seven concerned with the "Latest Phase of American-Japanese Relations." The symposium is concluded with three contributions on the problems of "The Immediate Future." Four of the articles are by distinguished Japanese. They should be read by Americans with special interest, and also with special care, as they accurately define the present objectives of Japan's policy, even though they follow current Japanese practice of using such words as "coöperation" and "order" with a reverse from the customary meaning. The other articles help to supply the data on the basis of which a conclusion can be reached as to whether we should acquiesce. The nature of the topics treated has resulted in some of the articles being more expressive of the opinion of the writer than others lending themselves more fully to objective factual treatment. A high level

both of tone and of writing is, however, maintained throughout. The editor has done an excellent job in defining the topics so that, in the total treatment, few aspects of Japanese-American relations are left untouched, and in securing people competent to deal with each objectively and dispassionately as well as informatively.—HAROLD M. VINACKE.

As in the preceding year, *International Law Situations, 1939* (Washington: Gov't Printing Office, p. vii, 162) was prepared by Payson S. Wild, Jr., professor of international law at Harvard University. The topics considered are: (1) neutral duties and state control of enterprise; (2) neutrality problems: distress, submarines, and qualified neutrality; and (3) contiguous zones, airplanes, and neutrality. Limitations of space permit reference to only a few of the interesting views expressed. Among others, the conclusion is reached that the question as to whether or not, under the law of neutrality, modern state-owned or controlled instrumentalities of business are to be forbidden to deal with and sell to belligerents, ought to be determined by "the *nature* of the deal, whether political or commercial, and not the fact of government ownership or control . . ." (p. 10). In other words, acting in its "private capacity," a neutral state may lawfully deal with belligerents, and "the criterion as to private capacity is the amount or extent of political bias or influence manifest in any given arrangement between a belligerent government and a corporation or agency controlled by a neutral state" (*ibid*). As regards a state which abandons strict neutrality in favor of a qualified neutrality (as, e.g., the United States is bound by its own so-called neutrality act of 1939 to do *vis-à-vis* Latin American republics in specified circumstances), it is asserted that such "failure of a neutral to discharge its obligations in all respects does not necessarily mean that it is deprived of all neutral rights or has assumed a position of complete partiality. Any sort of unneutral conduct does open the way for reprisals by the injured belligerent party" (p. 55). Concerning the so-called neutrality zone proclaimed by the American republics, the Naval War College classes conclude that the "Declaration of Panama is not a part of international law. Neutral jurisdiction for defense purposes over a part of the ocean extending 300 miles from the coast is without precedent and has not been generally accepted. There is agreement probably upon the principle but not upon its application to such a tremendously wide belt" (p. 80). Included in the volume are incidental discussions of contraband, the British "blockade" and treatment of U. S. mails, the *Altmark* and *City of Flint* cases, as well as fairly extensive appendices containing significant government documents relative to the war. —VALENTINE JOBST III.

To many laymen, the more complex economic ramifications of totalitarian war constitute virtually a no-man's land. To meet this need, several

economists have attempted to make intelligible to the lay conception the basic economic factors involved in the present war. A highly satisfactory move in this direction has been made by Geoffrey Crowther, editor of *The Economist*, in his *Ways and Means of War* (Oxford University Press, pp. v, 184, $1.25). The book grew out of two pamphlets previously contributed by Mr. Crowther to the series of Oxford Pamphlets on World Affairs. Present-day war is basically industrial, and is more influenced by economics than by elements of strategy. The first World War ended as it did because the Allies, man for man, had more guns, tanks, and aircraft than their opponents; and the same forces of industrial capacity are likely to prove conclusive in the present conflict. The author reviews the British and German economic systems, treating in some detail the seven things chiefly needed for the prosecution of war: man-power, materials, industrial capacity, ships, power to buy abroad, food, and money. The Nazi dictatorship has not worked economic miracles, although the Nazis have been "shrewd and prompt in mobilizing their limited resources." German autarchy, however, has wasted man-power in the attempt to become self-sufficient. One of the more serious gaps in the British situation has been the delay and hesitancy to mobilize a trained, publicly maintained, industrial army alongside the fighting army. "Wars," maintains Crowther, "are won by men and materials, by having the right kinds and quantities of men, trained to the right jobs, equipped with the right materials, in the right places at the right times." The British people can count on the present totalitarian war to eat up more than half of the total income of the nation. But despite this vigorous prostration of the normal economic system, Crowther believes that, given a British victory, the war will not "necessarily leave behind it a legacy of permanent impoverishment." On the whole, it is argued that "war does not greatly reduce a modern community's ability to produce wealth." The more permanent economic damage from war results from the social dislocations which are war's by-products—especially unemployment and redistribution of income as between different classes of the population. These dislocations may be both severe and dangerous, but they are not synonymous with impoverishment. By and large, the author comes to a not too pessimistic conclusion regarding the chance for an ultimate British victory. He does not conclude that Britain *will* win, but, given proper management, restricted consumption, and the economic weight of the United States, that it *can* win.—IVAN M. STONE.

Professor Antonio Gómez Robledo's *The Bucareli Agreements and International Law* (National University of Mexico Press, pp. xiii, 229; trans., Solomón de la Selva) purports to be a "juridical analysis" in the light of international law of these agreements concerning the United States-

Mexican oil and land problems. Aware of popular dissatisfaction in Mexico, Professor Gómez felt obligated to write the book because "it is the duty of the experts, . . . to transmit their findings to the people, proving popular suspicions right, . . . and so creating, in a word, a movement of opinion from above and below which shall put an end to conditions deeply injurious to the national dignity" (p. 201). The author attempts to make out that there is a basis in international law for the opinion that when international agreements conflict with municipal law the former must give way. After many pages of juridical analysis, he finds the need for something more than international law on which to base his case. Then it becomes "a matter of reacting as we should to a law of our history, the fatality of which only patriotism can prevent . . . . On reaching this point, law becomes mute in order that morality, that engendered it, may settle the debate with that fullness of jurisdiction which law cannot encompass" (p. 204).—WILLIAM M. GIBSON.

To some persons, the challenge of Nazi totalitarianism represents "The Wave of the Future"; others regard it merely as an undertow from the past. Taking his title from Thomas Jefferson's description of the menace of the Napoleonic system, Professor Edward M. Earle, of the Institute for Advanced Study, has written an eloquent plea to the American people to stand firmly *Against This Torrent* (Princeton University Press, pp. 73, $1.00). Within the compass of a few pages, he has compressed a carefully reasoned analysis of the prospective effects of a Nazi victory on the American way of life, together with a convincing demonstration that a policy of full resistance is in complete accord with, and not in violation of, the fundamental and traditional principles of American foreign policy. To those who wish to take refuge in a policy of passive defense based on a belief in the invulnerability of the United States to hostile invasion, the author points out that "it may be doubted, in fact, whether talk of physical invasion has any but minor relevance to the issue. In totalitarian strategy, invasion is not a first step but a regrettable and unavoidable last resort. It is something to be undertaken only after all other methods have been exhausted." Similarly, those who rely on the wisdom and warnings of the founding fathers to justify a policy of non-intervention will find in these pages a host of quotations from them which will afford scant comfort. Clear, temperate, and forceful, this slender volume is a welcome addition to the literature of the present controversy over foreign policy.—GRAYSON L. KIRK.

Italy's position in Eastern Asia has never in modern times entitled her to rank there as one of the so-called Great Powers. Nevertheless, during very recent years, her political relationships with both China and Japan have not been without significance. In his *Italy's Interests and Policies in*

the Far East (New York: Institute of Pacific Relations, Inquiry Series, pp. xiii, 91, $1.00), Frank M. Tamagna, instructor in economics at Xavier University, Cincinnati, presents what is admittedly a small and undramatic story. His brief study includes: a summary of Italy's position in the Far East before 1922; political relations with China and Japan, 1922–1940; commercial relations with the same countries; relations with southeastern Asia; economic interdependence of Italy and the Far East; and a chapter of tentative conclusions. The most valuable parts of the study are the chapters on commercial and economic affairs. The chapter on political relations does not do much toward clarifying the goal, if any, of Italian contemporary policy in the Far East.—PAUL H. CLYDE.

POLITICAL THEORY AND MISCELLANEOUS

According to the synopsis of theme printed on the jacket of Huntingdon Cairns' *The Theory of Legal Science* (University of North Carolina Press, pp. 146, $2.00), the author therein demonstrates that his concept of law as a function of disorder frees the jurist from "mechanistic explanations founded upon parallels drawn from physics." The idea seems to be that a natural social order is, from a teleological standpoint, disorder; the legal order is an achievement of invention which in turn cannot be, or at least has not been, satisfactorily accounted for on mechanistic grounds. This conclusion is not, however, a prelude to the recognition of ethical precepts as basic for legal science. Mr. Cairns is looking for statements of "invariant relationships among facts" as the end of scientific research; he thoroughly appreciates the desirability of establishing correlations between other orders of society and the law; and, finally, he rejects the suggestion that a scientific proposition about law need contain an "ought." While it is true that he also talks somewhat vaguely about organizing the results of research into a coherent system "in conjunction with a rational theory of ethics," in the main his voluntarism finds merely tangential expression in (a) a defense of the free use of hypotheses, and (b) a critical attitude toward certain deterministic theories. In this connection, the reviewer found his treatment of "Monistic Causality," "Functional Dependence," and "Equilibrium" particularly suggestive. Not until the last of the ten chapters in the book does Mr. Cairns confront the underlying problem left pretty much in the air while the author carefully examines various sociological and anthropological methodological devices. If, as he recognizes in this chapter, there is a difference between jurisprudence as an inventory of value judgments and jurisprudence as a valuation of value judgments, and if, as he also recognizes, the former is the true sphere of jurisprudence—what significance has the recognition of the value element in the behavior studied for the method of identifying data? In other words, does he find these values "out there" in the "objective" world presup-

posed by empirical science? And, if so, how can the recognition of value be more than a temporary expedient pending fuller scientific knowledge of the human psyche? Because Mr. Cairns does not undertake to answer such theoretical questions, nor, on the other hand, to demonstrate on the practical side how his conclusions as to method may result in any more fruitful categories for the study of legal phenomena than are already employed, the reviewer confesses to a feeling of disappointment in the book despite the wealth of erudition it displays.—KENNETH C. COLE.

Designed for college classes, while deserving of wider reading, *Masters of Political Thought* (Houghton Mifflin Co., pp. ix, 302, $2.25), by Michael B. Foster, tutor of Christ Church and university lecturer in philosophy, Oxford, is the first of three volumes projected as a series. Dr. Foster's volume—Plato to Machiavelli—will be followed by a second—Machiavelli to Bentham—preparation of which has been entrusted to Dr. William T. Jones, of Pomona College, and by a third—Bentham to the Present—to be prepared by Professor McGovern of Northwestern. Professor Sait, in a convincing little editor's introduction, wants to get away from the conventional textbook method of the teaching of political theories and to resort more to the originals. One may heartily agree, provided that adequate commentaries are interspersed among significant passages as selected from the sources, if not adequately by the instructor himself, then with the aid of precisely such a book as this. No one but an expert in the field could do the job so as to be worth doing at all. Foster's volume is a clear and instructive analysis of the essentials in the sources chosen. Only the great figures, or in one or two instances the most representative, of a period (such as Cicero), are included. The belated demand now rising in American universities, against the background of the present world conflict, that we seek to recover the bed rock of our culture, and that there be recognized some common body of significant knowledge with which every educated person would have some acquaintance, should prepare a welcome for this kind of contribution. The reviewer will not quarrel here with the interpretation given the natural law conception as being essentially a post-Aristotelian growth. The comments upon Plato, Aristotle, Cicero, Augustine, Aquinas, and Machiavelli give their teachings fresh life for the present.—WALTER SANDELIUS.

In *Centralized vs. Decentralized Government in Relation to Democracy* (New York: Bureau of Publications, Teachers College, pp. vii, 69, $0.75), sub-titled, "A Review of the Arguments Advanced in the Literature of Various Nations," Paul Studenski and Paul R. Mort present a compendium of the views of students of political science here and abroad on the merits and shortcomings of centralization and decentralization. Most of the text consists of quotations, many from quite bizarre sources, classi-

fied and strung together with running comment somewhat after the manner of a high school debating manual. The familiarity of the authors with the literature which the quotations represent is indicated by the statement that American political scientists "speak extensively of state supervision of localities, but scarcely at all of federal supervision over states" (p. 47); their attention might be called to the fact that Miss Clark's *Rise of a New Federalism* has a "selected bibliography" of twenty-one pages. The utility of the collection, and of the publication, of the material is entirely beyond the comprehension of this reviewer. The authors offer their document "to the general public" with the hope that it will help "to clarify" the issue and "to lay the groundwork for further significant research." The material is not in the most suitable form for the education of the "general public"; "the issue" is no clearer than it was before the quotations were placed in juxtaposition; and anybody setting out to do "significant research" would already be acquainted with the ideas and views collected. The chapters of the monograph originally appeared serially in the *Teachers College Record*.—V. O. Key, Jr.

The last publication of the International Labour Office while Mr. John G. Winant was director is entitled *Studies in War Economics* (P. S. King and Son, pp. 199, $1.00). In it are articles on the following subjects: "Economic Organization for Total War, with Special Reference to the Workers"; "Who Shall Pay for the War?"; "Relative Wages in War-time"; "The Control of Food Prices"; "The Place of Housing Economy in War Economy"; and "The Effect of the War on the Relative Importance of Producing Centers, with Special Reference to the Textile Industry." The first of the studies is, in the opinion of this reviewer, especially stimulating. The author mentions four important changes in production in war-time which he calls changing techniques of warfare, the problem of bottlenecks, working hours and shifts, and war production and government control. In addition to discussion of changes in consumption and the effect of war on foreign trade, there is a detailed treatment of the methods of restricting consumption. Among the author's conclusions are these: "The workers are at present engaged in a war the outcome of which will decide the future of labor and democracy not only in our time but for generations to come. They must overthrow the Nazis and Fascists, whatever the cost, if they are to preserve the most important gains which they have made since the downfall of the feudal system. Consequently, efficient economic organization for war is the main problem facing organized labour at the present time." And again! "Inflation is the least equitable and efficient of these methods [for restricting consumption], and large-scale voluntary lending tends to produce unfavorable effects on post-war distribution of income; hence a combination of taxation, compulsory

lending, and rationing, with some provision for voluntary lending, appears to be the most equitable and efficient method of restricting consumption." —JOHN G. HERNDON.

Not without warrant are we impressed by the skillful research of crime investigators or the elaborate reasoning of the legalist, yet both are surpassed by the historical scholar who ransacks the whole world for his evidence and ponders it with an inexhaustible ratiocination. True, the results in the latter case may sometimes appear slight, even be slight; but that is a different matter. An example is afforded by Kurt von Fritz's *Pythagorean Politics in Southern Italy* (Columbia University Press, pp. ix, 113, $2.00). The problem is the nature of Pythagorean political activity, mainly in the fifth century B. C. And the point established, on the basis of numismatic data and reinterpretation of ancient accounts (one in particular, by Aristoxenos), is that a reputedly local and restricted rebellion was in reality a widespread revolt against Pythagorean domination. The inference follows that the Pythagoreans at that time did exercise considerable political power, only not, apparently, as official rulers but also through their influence in some such fashion, the author guesses, as the Free Masons wielded power in the eighteenth century.—L. M. PAPE.

Professor Weldon A. Brown has made a very careful and detailed investigation of an aspect of the American Revolution which has received little attention from scholars. *Empire or Independence; A Study in the Failure of Reconciliation, 1774–1783* (Louisiana State University Press, pp. ix, 338, $3.00) examines minutely the various efforts made to settle by negotiation the quarrel between Great Britain and the United States. The author concludes that the earlier offers made by Lord North were inadequate and played into the hands of the minority who wanted independence and not a peaceful settlement. The final proposals of 1778 would very probably have been accepted a few years earlier, but they came too late.—LENNOX A. MILLS.

RECENT PUBLICATIONS OF POLITICAL INTEREST
BOOKS AND PERIODICALS

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AMERICAN GOVERNMENT AND PUBLIC LAW

Books and Pamphlets

American Council on Public Affairs. The poll tax. Pp. 23. Wash.: Am. Council on Pub. Affairs. 1940.

Arnold, Thurman. Anti-trust law enforcement. Pp. 23. Wash: Am. Council on Pub. Affairs. 1940.

Beard, William. Regulation of pipe lines as common carriers. Pp. 190. N.Y.: Columbia Univ. Press. 1941.

Beck, James M. The constitution of the United States. Rev. and with additional material by James Truslow Adams. Pp. 336. N.Y.: Doubleday. 1941.

Bloch, H. S., and *Others.* Economic mobilization. Pp. 43. Wash.: Am. Council on Pub. Affairs. 1941.

Boutwell, William Dow, and *Associates.* America prepares for tomorrow; the story of our total defense effort. N.Y.: Harper. 1941.

Brisbane, Seward. Getting a job with the U. S. government. Pp. 33. N.Y.: Reader Mail. 1941.

Christensen, A. N., and *Kirkpatrick, E. M.* The people, politics, and the politician. Pp. 1011. N.Y.: Holt. 1941.

Culver, Mrs. Dorothy Campbell, comp. Administration and organization in wartime in the United States; a bibliography. Pp. 17. Chicago: Pub. Admin. Service. 1940.

David, Leon Thomas. The tort liability of public officers. Pp. 93. Chicago: Pub. Admin. Service. 1940.

Disraeli, Robert. Uncle Sam's treasury. Pp. 121. Boston: Little, Brown. 1941.

Fainsod, Merle, and *Gordon, Lincoln.* Government and the American economy. Pp. 880. N.Y.: Norton. 1941.

Ferguson, George W. The old standards and the new party. Pp. 127. N.Y.: Fortuny's. 1940.

Finney, Burnham. Arsenal of democracy; how industry builds our defense. Pp. 294. N.Y.: Whittlesey House. 1941.

Ford, Robert S., and *Shepard, E. Fenton.* Retail sales taxation in Michigan. Pp. 20. Ann Arbor (Mich.): Bur. of Govt., Univ. of Mich. 1941.

Gates, Charles M., ed. Messages of the governors of the territory of Washington to the legislative assembly, 1854–1889. Pp. 317. Seattle (Wash.): Univ. of Wash. Press. 1941.

Hansen, Alvin H. Fiscal policy and business cycles. Pp. 462. N.Y.: Norton. 1941.

Holloway, W. V., and *Smith, Charles W., Jr.* Government and politics in Alabama. Pp. 210. University (Ala.): Univ. Supply Store. 1941.

Homan, Paul T., and *Others.* Puerto Rican problems. Pp. 15. Wash.: Am. Council on Pub. Affairs. 1940.

Hutchison, David, and *Hill, Robert T.* American rights, civil and political. Pp. 84. Albany (N.Y.): Am. Viewpoint. 1941.

Kalnay, Francis, and *Collins, Richard,* comps. The new American; a handbook of necessary information for aliens, refugees, and new citizens. Pp. 440. N.Y.: Greenberg. 1941.

Kane, Harnett T. Louisiana hayride; the American rehearsal for dictatorship, 1928–1940. Pp. 479. N.Y.: Morrow. 1941.

Kemler, Edgar. The deflation of American ideals; an ethical guide for new dealers. Pp. 184. Wash.: Am. Council on Pub. Affairs. 1941.

Kleinsorge, Paul L. The Boulder canyon project; historical and economic aspects. Pp. 344. Stanford University (Calif.): Stanford Univ. Press. 1941.

Krout, John A., ed. America faces the future. Pp. 119. (Proc. Acad. Pol. Sci., vol. XIX, no. 3, May, 1941). N.Y.: Acad. of Pol. Sci., Columbia Univ.

Litchfield, Edward H. Voting behavior in a metropolitan area. Pp. 93. Ann Arbor (Mich.): Univ. of Mich. Press. 1941.

Ludlow, William L. The American constitution. Pp. 450. New Concord (Ohio): Radcliffe Press. 1941.

MacLeish, Archibald. The American cause. Pp. 43. N.Y.: Duell, Sloan & Pearce. 1941.

Mort, Paul R., and *Reusser, Walter C.* Public school finance; its background, structure, and operation. Pp. 569. N.Y.: McGraw-Hill. 1941.

Mosher, William E., and *Kingsley, John D.* Public personnel administration. Rev. ed. Pp. 681. N.Y.: Harper. 1941.

Mussatti, James. Constitutionism; the origin of liberty under the constitution. Rev. ed. Pp. 56. San Francisco (Calif.): Am. Principles. 1941.

Nichols, Mrs. Jeannette Paddock, and *Randall, James G.* Democracy in the middle west, 1840–1940. Pp. 133. N.Y.: Appleton-Century. 1941.

Palmer, John McAuley. America in arms; the experience of the United States with military organization. Pp. 215. New Haven (Conn.): Yale Univ. Press. 1941.

Pennock, J. Roland. Administration and the rule of law. Pp. 271. N.Y.: Farrar & Rinehart. 1941.

Rohlfing, Charles C., and *Others.* Business and government. 4th ed. Pp. 800. Chicago: Found. Press. 1941.

Robinson, William M., Jr. Justice in grey; a history of the judicial system of the confederate states of America. Pp. 734. Cambridge (Mass.): Harvard Univ. Press. 1941.

Ruckhäberle, Eugen. Die politischen und theoretischen Grundlagen der Verwaltungsorganisation in U.S.A. Pp. 84. Berlin: Preuss. Druckerei- u. Verlags-A.G. 1940.

Rumpf, Helmut. Die Entwickelung des Arbeitsrechts in den Vereinigten Staaten. Pp. 53. Tübingen: Mohr. 1939.

Saenger, Gerhart. Today's refugees, tomorrow's citizens; a story of Americanization. Pp. 300. N.Y.: Harper. 1941.

Tax barriers to trade; symposium conducted by the tax institute, December 2–3, 1940, Chicago, Illinois. Pp. 352. Phila.: Tax Inst. 1941.

Tharp, Claude R. Federal expenditures in Michigan. Pp. 36. Ann Arbor (Mich.): Bur. of Govt., Univ. of Mich. 1941.

Tiller, Carl W. Governmental cost accounting. Pp. 78. Chicago: Mun. Finance Officers' Assoc. 1940.

Villard, Henry H. Deficit spending and the national income. Pp. 447. N.Y.: Farrar & Rinehart. 1941.

Articles

Accounting. Accounting in the national defense program. *Herbert F. Taggart.* Accounting Rev. Mar., 1941.

———. Administrative development of financial controls in government. *E. L. Kohler.* Statements of federal fiscal operations. *Orton W. Boyd.* Mun. Finance. May, 1941.

———. Executive pre-audit of encumbrances in governmental accounting. *E. E. Naylor.* Jour. of Accountancy. June, 1941.

Administration. Over-all financial planning through the bureau of the budget. *Arthur N. Holcombe.* Managing committee work in a large organization. *Comstock Glaser.* Pub. Admin. Rev. Spring, 1941.

Administrative Law. The advent of the administrative process and its future. *Thomas F. Konop.* Notre Dame Lawyer. Mar., 1941.

———. Administrative agency practice. *Symposium.* John Marshall Law Quar. Mar., 1941.

———. Practical aspects of practice before administrative agencies. *George M. Morris.* Conn. Bar Jour. Apr., 1941.

———. The final report of the attorney general's committee on administrative procedure. *Symposium.* Columbia Law Rev. Apr., 1941.

———. Separation of functions within federal administrative agencies; a comment on the report of the attorney general's committee on administrative procedure. *Nathaniel L. Nathanson.* Ill. Law Rev. Apr., 1941.

———. Judicial self-limitation in administrative law; examples in tariff administration. *Ralph H. Dwan* and *Everett E. Smith.* Minn. Law Rev. May, 1941.

———. The Acheson report; a critique. *James Hart.* Ia Law Rev. May, 1941.

———. "Substantial evidence" in administrative law. *E. Blythe Stason.* Administrative management, administrative regulation, and the judicial process. *John Dickinson.* Univ. of Pa. Law Rev. June, 1941.

———. Power of administrative agencies to compel testimony. *Seymour Samuels, Jr.* Tenn. Law Rev. June, 1941.

Agriculture. Statutory control of agriculture in the United States. *C.E.A.B* Jour. of Comp. Legis. and Int. Law. Feb., 1941.

———. Good-by to the homestead farm. *Paul S. Taylor.* Harper's. May, 1941.

Alaska. Alaska. *Vilhjalmur Stefansson.* Harper's. June, 1941.

Army. Camps for 1,418,000. Fortune. May, 1941.

———. National service life insurance act of 1940. Ia. Law Rev. May, 1941.

Auditing. The independent state post-audit. *James W. Martin* and *Robert Sawyer.* State Govt. May, 1941.

Aviation. The year in the air. *Reginald M. Cleveland.* Government procurement of aircraft. *Arnold W. Knauth.* Air Law Rev. Jan., 1941.

Bankruptcy. Fair, feasible, and in the public interest. *Max Radin.* Calif. Law Rev. May, 1941.

Blue Laws. Ancient "blue laws" are cobwebs in the legal attics of many states. *James R. Morford.* State Govt. May, 1941.

Censorship. Censorship. Fortune. June, 1941.

Citizenship. Citizenship and national security. *Arthur Kramer.* Southwest Rev. Winter, 1941.

Civil Relief Act. Civil relief to persons in the military service of the United States. *Thomas W. Rogers.* Am. Law School Rev. May, 1941.

Civil Rights. Symposium on civil liberties. Am. Law School Rev. Apr., 1941.

———. Discussion and criticism of the operations of government in time of war. *Roscoe Pound.* The civil liberties section of the department of justice. *Henry A. Schweinhaut.* Bill of Rights Rev. Spring, 1941.

———. Our constitutional protection of guilt. *Claire B. Bird.* Jour. of Am. Judicature Society. June, 1941.

Civil Service. The Alabama state merit system; a report of progress. *I. J. Browder.* Civil service in Minnesota; the first eighteen months. *Kenneth C. Pennebaker.* Rhode Island installs civil service. *Maxwell A. De Voe* and *Edward H. Litch-*

field. The national roster of scientific and specialized personnel. *Leonard Carmichael.* Pub. Personnel Rev. Apr., 1941.

———. The attorney in the civil service. *Bernard Rothman.* Subversive activity as a cause of ineligibility for the civil service. *Lawrence D. Bell.* St. John's Law Rev. Apr., 1941.

———. New York state extends merit system. *Morton Yarmon.* The case for the open back door. *Harry W. Marsh.* Nat. Mun. Rev. May, 1941.

———. Professional personnel in the federal government. *Lewis B. Sims.* Pub. Admin. Rev. Spring, 1941.

Commerce Power. The New River case. *Maurice P. Davidson.* Commercial Law Jour. Apr., 1941.

———. The commerce clause. *Albert D. Levin.* N. Y. Bar Assoc. Bull. May, 1941.

Congress. The house versus the senate in the third session of the seventy-sixth congress. *Floyd M. Riddick.* So. Atlan. Quar. Apr., 1941.

Conscription. The selective service acts of 1917 and 1940. *Robert D. Gibbons.* George Washington Law Rev. Apr., 1941.

———. The conscientious objector under the selective service act of 1940. *Joseph T. Tinnelly.* The selective service and training act of 1940. *Alexander Vitale.* St. John's Law Rev. Apr., 1941

———. Conscription hits the campus. *Gaynor Maddox.* Am. Mercury. May, 1941.

———. The case of the eight divinity students. *Milton R. Konvitz.* Bill of Rights Rev. Spring, 1941.

———. The conscientious objectors. *Victor Weybright.* Survey Graphic. June, 1941.

Conservation. A philosophy of permanent conservation. *Ching-Yuen Hsiang.* Jour. of Land and Pub. Util. Econ. May, 1941.

———. Progress in forest fire control. *George M. Gowen.* Scientific Mo. June, 1941.

Constitutional Law. Political practice and the constitution. *Charles Warren.* Univ. of Pa. Law Rev. June, 1941.

Corporations. The modern corporation, private property, and recent federal legislation. *E. Merrick Dodd, Jr.* Harvard Law Rev. Apr., 1941.

Court-Martial. The army court-martial system. *Archibald King.* Wis. Law Rev. May, 1941.

Defense. Total security; a challenge. *Charles E. Wilson.* Survey Graphic. Apr., 1941.

———. Wars are won by machine tools. *Tell Berna.* Harper's. May, 1941.

———. The states, education, and national defense. *John W. Studebaker.* State councils of defense; 1917 and 1941 models. *William D. Carey.* State Govt. May, 1941.

———. Air power; a specific proposal. *Francis Vivian Drake.* Atlan. Mo. June, 1941.

———. Negroes and defense. *Beulah Amidon.* Remedy or reject? *Michael M. Davis.* Prisoners, parolees, and defense. *Austin H. MacCormick.* Survey Graphic. June, 1941.

Deportation. The legislative veto and the deportation of aliens. *Harvey C. Mansfield.* Pub. Admin. Rev. Spring, 1941.

Elections. Here are the answers to 'why voters don't vote.' *Selwyn Pepper.* Nat. Mun. Rev. May, 1941.

Electoral College. Should the electoral college be abolished? *Symposium.* Cong. Digest. Mar., 1941.

Eminent Domain. Eminent domain damages. *J. B. Steiner.* Mo. Law Rev. Apr., 1941.

———. Procedure in eminent domain cases under the T.V.A. act. *H. James Hitching* and *Philander P. Claxton.* Tenn. Law Rev. June, 1941.

Federalism. Taking stock of federalism in the United States. *Arthur W. Macmahon.* Canadian Jour. of Econ. and Pol. Sci. May, 1941.

Federal-State Relations. State coöperation and federal omnipotence. *Lawrence G. Williams.* N. Y. Bar Assoc. Bull. May, 1941.

Finance. Mars has a hand in your pocket. *Willford I. King.* Nation's Business. May, 1941.

———. Borrowing for national defense. *Henry S. Bloch.* Federal fiscal policy in national defense. *George A. Steiner.* Taxes. May, June, 1941.

Government and Business. Principles of free enterprise. *William B. Hale.* Bill of Rights Rev. Spring, 1941.

Government Contracts. War-time contracts and control in equity of "inordinate" profits. *John H. Coffman.* George Washington Law Rev. Apr., 1941.

Government Corporations. The disappearing boundary lines between public non-municipal corporations and government-owned private corporations. *Mary Concepcion.* Philippine Law Jour. Mar., 1941.

Health. U. S. public health service. U. S. health officer. Fortune. May, 1941.

———. Public health expands its facilities under title VI, federal social security act. *E. R. Coffey.* Appraising public medical services. *Louis S. Reed* and *Dean A. Clark.* Am. Jour. of Pub. Health. Apr., May, 1941.

Highways. The U. S. highway system. Fortune. June, 1941.

Housing. Rural housing conditions in an Illinois township. *LaRue Spiker.* Social Service Rev. Mar., 1941.

———. War housing; the emergency fleet corporation experience, I. *John L. Tierney.* Potential effects of the defense program on housing. *Arthur M. Weimer.* Jour. of Land and Pub. Util. Econ. May, 1941.

———. Housing between boom and bottlenecks. *Max Nurnberg.* Soc. Research. May, 1941.

Interstate Commerce Commission. Standing to challenge orders of the I.C.C. *Joseph B. Goldman.* George Washington Law Rev. Apr., 1941.

Interstate Relations. Atlantic states marine fisheries compact. *Frederick L. Zimmermann.* State Govt. Apr., 1941.

Judicial Council. The judicial council movement. *Charles S. Coffey.* Tenn. Law Rev. June, 1941.

Judicial Review. Judicial review as a safeguard to democracy. *C. Perry Patterson.* Georgetown Law Jour. Apr., 1941.

Judiciary. Federal review of ambiguous state court decisions; an opportunity for judicial centralization. *Archibald A. Patterson.* Va. Law Rev. May, 1941.

———. New limitations on power of federal courts to decide non-federal questions. Yale Law Jour. May, 1941.

Labor. The right of strikers. *Leonard B. Boudin.* Wage order procedure under the fair labor standards act. Ill. Law Rev. Feb., Mar., 1941.

———. Jurisdictional disputes in labor organizations. *M. R. Kamin.* Univ. of Pittsburgh Law Rev. Mar., 1941.

———. Strike restrictions in union agreements. Monthly Labor Rev. Mar., 1941.

———. The wage and hour law in the supreme court. *W. T. Pegues* and *B. B. Taylor, Jr.* La. Law Rev. Mar., 1941.

———. The scope of arbitration in labor disputes. *Wayne L. Morse.* Democracy employment regularization and the annual wage. *Emerson P. Schmidt.* Commonwealth Rev. Mar., 1941.

———. The application of the antitrust laws to labor; a new era. *Benno C. Schmidt.* Tex. Law Rev. Apr., 1941.

———. The national labor relations board and the federal courts. *Erwin K. Zingler.* So. Econ. Jour. Apr., 1941.

———. The influence of the Walsh-Healey public contracts act upon labor conditions. *Edward F. Denison.* Jour. of Pol. Econ. Apr., 1941.

———. The law of picketing in Pennsylvania. *M. Herbert Syme.* Twilight of the Sherman act as applied to labor; the Hutcheson case. *J. B. L. R.* Temple Univ. Law Quar. Apr., 1941.

———. Occupational outlook research. *Donald H. Davenport* and *Emmett H. Welch.* Pub. Personnel Rev. Apr., 1941.

———. The Hutcheson case. *John R. Stockham.* Wash. Univ. Law Quar. Apr., 1941.

———. A cooling-off period in labor disputes in relation to national defense. *Nicholas Unkovic.* Dickinson Law Rev. May, 1941.

———. Peonage in California. *George Meany.* Labor in the empire state. *Thomas J. Lyons.* Am. Federationist. May, 1941.

———. Strikes and defense. *Beulah Amidon.* Survey Graphic. May, 1941.

———. Danger; men not at work! *Hatton W. Sumners.* Nation's Business. May, 1941.

———. Labor mediators. *Irwin Ross.* Harper's. May, 1941.

———. Labor and the war. *Sumner H. Slichter.* Atlan. Mo. May, 1941.

———. Kentucky's new employer-employee relations act. *George Neff Stevens.* Labor warfare and the anti-injunction laws. *Lennart V. Larson.* Ky. Law Jour. May, 1941.

———. Steelman and associates. *Stanley High.* Current Hist. May, 1941.

———. Treatment of violence in labor disputes by the national labor relations board. *Walter Daykin.* Ia. Law Rev. May, 1941.

———. The industry committee provisions of the fair labor standards act. *Elroy D. Golding.* Yale Law Jour. May, 1941.

———. The evolution of the "duty to bargain" concept in American law. *Russell A. Smith.* The present status of collective contracts in the American legal system. *Arthur Lenhoff.* Mich. Law Rev. May, 1941.

———. The constitutionality of bi-monthly pay day laws. *Cyril J. Smith.* Tenn. Law Rev. June, 1941.

———. The I. B. T. C. W. H. of A. Strike doctors. Fortune. May, June, 1941.

———. The importance of enforcement of minimum wage standards. *Kate Papert.* Pennsylvania's minimum wage law hamstrung by hurdles. *M. Nelson McGeary.* Wage-hour inspection; a federal program. *Clara M. Beyer.* The important place of the seaman in our national economy. *Elmo P. Hohman.* Am. Labor Legis. Rev. June, 1941.

Liquor Control. The application of the new liquor license statute. *Robert J. Cunningham.* The Municipality. May, 1941.

Military Rule. Relation of military to civil and administrative tribunals in time of war. *Theodore Miller.* Ohio State Univ. Law Jour. Mar., 1941.

Milk Regulation. Milk price control; a developing field of administrative law. *Frank E. Coho.* Dickinson Law Rev. May, 1941.

Mining. Federal mine inspection. *Harold L. Ickes.* Am. Labor Legis. Rev. June, 1941.

Money. The prospects of inflation. *Alfred Kähler.* Soc. Research. May, 1941.

Monopoly and Competition. The development of legal restraints on discrimination in prices. *I. Beverly Lake.* La. Law Rev. Mar., 1941.

———. "Tying clauses" and the patent monopoly. *Conrad W. Oberdorfer.* Ohio State Univ. Law Jour. Mar., 1941.

———. Restraint of trade; price leadership as a violation of the Sherman act. *William H. Orrick, Jr.* Calif. Law Rev. May, 1941.

Motor Carriers. Certification of motor common carriers by the interstate commerce commission, II. *John J. George* and *Joseph R. Boldt, Jr.* Jour. of Land and Pub. Util. Econ. May, 1941.

Navy. America's naval preparedness. Policies and problems of the U. S. navy. *David H. Popper.* For. Policy Rep. Apr. 1, May 1, 1941.

———. U. S. naval strategy. *Fletcher Pratt.* Fortune. June, 1941.

Parties. Party and constitution. *Norton E. Long.* Jour. of Politics. May, 1941.

———. The negro vote in northern cities. *Harold F. Gosnell.* Nat. Mun. Rev. May, 1941.

———. Political changes among negroes in Chicago during the depression. *Elmer W. Henderson.* Social Forces. May, 1941.

Patents. Patents and national defense. *Karl Fenning.* Am. Bar Assoc. Jour. May, 1941.

Personalities. Thomas R. Marshall. *H. S. K. Bartholomew.* Ind. Mag. of Hist. Mar., 1941.

———. Winant of New Hampshire. *Charles Rumford Walker.* Atlan. Mo. May, 1941.

———. New Hampshire's Gil Winant. *Janet Mabie.* Current Hist. June, 1941.

Public Deposits. Security of public deposits. *William Miller.* New Jersey Municipalities. Apr., 1941.

Public Officers. The national guard call; its effect on state civil officers holding commissions. *R. J. F.* Univ. of Pa. Law Rev. June, 1941.

Public Printing. Printing scandals investigated. *Estal E. Sparlin.* Nat. Mun. Rev. Apr., 1941.

Public Relations. A state-wide information bureau. *Curtis Fuller.* State Govt. Apr., 1941.

Public Utilities. Utility valuation in the Solar Electric case. *G. W. Schroeck* and *E. V. Sciamanna.* Univ. of Pittsburgh Law Rev. Mar., 1941.

———. Electric power as a regional problem. *Melvin G. de Chazeau.* So. Econ. Jour. Apr., 1941.

———. Distribution of voting power under the public utility holding company act. Yale Law Jour. May, 1941.

———. Public utility rates on a reproduction-cost-of-service principle. *Joseph Jeming.* Regulation of utility servicing under the holding company act of 1935, II: Allocation of costs. *William F. Kennedy.* Public utility financing in the first quarter of 1941. *R. G. Dudley* and *W. H. Evans.* Jour. of Land and Pub. Util. Econ. May, 1941.

———. Tennessee's railroad and public utilities commission. *George C. Anderson.* Tenn. Law Rev. June, 1941.

———. They'll produce the juice. *Herbert Corey.* The rôle of the employer in a public ownership battle. *Alfred M. Cooper.* Who own the utilities? *Albert W. Atwood.* Public and private power in the northwest. *Kinsey M. Robinson.* Santee-Cooper dons khaki. *T. N. Sandifer.* Progress in service company regulation. *Edward C. Eicher.* What will the defense program do to utility merchandising? *W. D. Gay.* Pub. Util. Fort. Apr. 24, May 8, 22, June 5, 1941.

Regulatory Commissions. Independent regulatory commissions and the separation of power doctrine. *George Warp.* Notre Dame Lawyer. Mar., 1941.

Relief. The public charities of New York; the rise of state supervision after the civil war. *David M. Schneider* and *Albert Deutsch.* The responsibility of relatives under the state old age assistance laws. *Ethel J. Hart.* Relation of relief to increase of juvenile court cases. *Ellery F. Reed.* Social Service Rev. Mar., 1941.

———. The sharing of responsibility for relief; a discussion: The case for state-local administration. *William J. Ellis.* The case for retaining the federal W.P.A. *William Hodson.* Pub. Admin. Rev. Spring, 1941.

Removal Power. The president's power of removal and the T.V.A. *Robert A. Swain.* George Washington Law Rev. Apr., 1941.

Reporting. Understandable state finance reports. *Harold W. H. Burrows.* Mun. Finance. May, 1941.

Rural Electrification. Bringing power to the farm, I and II. *Royden Stewart.* Pub. Util. Fort. May 8, 22, 1941.

Securities Regulation. Accounting provisions of the investment company act. *Frank P. Smith.* Accounting Rev. Mar., 1941.

———. The investment company act of 1940. *Alfred Jaretzki, Jr.* Wash. Univ. Law Quar. Apr., 1941.

Social Security. Social security proposals, 1941. *Arthur J. Altmeyer.* Domestic workers need social security. *Annetta M. Dieckmann.* Am. Labor Legis. Rev. June, 1941.

State Government. Georgia coördinates activities of examining boards in the office of a joint secretary. *John B. Wilson.* State Govt. May, 1941.

State Legislatures. Bicameral legislatures are effective. *Frank E. Horack, Jr.* State Govt. Apr., 1941.

———. A West Virginia filibuster. *Franklin L. Burdette.* So. Atlan. Quar. Apr., 1941.

———. Wanted: experienced legislators. *Mona Fletcher.* Nat. Mun. Rev. May, 1941.

———. The new legislative problem. *Oswald D. Heck.* N. Y. Bar Assoc. Bull. May, 1941.

Supreme Court. The supreme court; then and now. *Edwin P. Wolfe.* St. John's Law Rev. Apr., 1941.

———. The appointment of supreme court justices, II. *John P. Frank.* Wis. Law Rev. May, 1941.

———. Mr. Justice Bradley's appointment to the supreme court and the legal tender cases, I and II. *Charles Fairman.* Harvard Law Rev. Apr., May, 1941.

Taxation. The determination of property taxes in Washington. *Douglas H. Eldridge.* Wash. Law Rev. and State Bar Jour. Jan., 1941.

———. The place of Illinois in a rational scheme of tax reform. *Paul Haensel.* The judicial review of valuation in Illinois property tax cases. *Robert S. Cushman.* Property tax collection and delinquency. *H. K. Allen.* State aid and shared taxes in Illinois. *Catherine G. Ruggles.* The supreme court and the federal income tax; some implications of the recent decisions. *Stanley S. Surrey.* Taxation of intangibles under the Illinois general property tax. Is any desirable type of general income tax constitutional in Illinois? Improvement of business taxation in Illinois. Property exempted from taxation. Ill. Law Rev. Feb., Mar., 1941.

———. Constitutional limitations in Illinois bearing on the exemption of foodstuffs from the so-called "sales tax." *Patrick B. Prescott, Jr.* John Marshall Law Quar. Mar., 1941.

———. New facets relating to interstate problems in sales tax administration. *Joseph P. McNamara.* Notre Dame Lawyer. Mar., 1941.

———. State taxation in a national economy. *Jerome R. Hellerstein* and *Edmund B. Hennefeld.* Harvard Law Rev. Apr., 1941.

———. The supreme court and regulatory taxation. *Orme W. Phelps.* Jour. of Business. Apr., 1941.

———. The trend of supreme court tax decisions. *Allen K. Bergman.* St. John's Law Rev. Apr., 1941.

———. Is federal taxation of municipal and state bonds necessary to our defense program? *Henry Epstein.* New Jersey Municipalities. Apr., 1941.

———. Reciprocal taxation of the income from federal, state, and municipal bonds. *Edward H. Foley, Jr.* Self-government versus federal taxation of your local securities. *Henry Epstein.* Legal Notes on Local Govt. Apr., 1941.

———. The excess profits tax; proposals for 1941. *L. Robert Driver, Jr.* Yale Law Jour. May, 1941.

———. Federal tax litigation and the tax division of the department of justice. *Lucius A. Buck.* Va. Law Rev. May, 1941.

———. Judicial review of tax assessments in Iowa. *Robert B. Throckmorton.* Ia. Law Rev. May, 1941.

———. Relief from excess profits tax. *Roswell Magill.* "Dividends" and "earnings or profits" under the income tax law; corporate non-liquidating distributions. *Harry J. Rudick.* Corporate liquidations and the federal income tax. *Norris Darrell.* Income tax aspects of a corporation's dealings in its own shares. *Calvin H. Rankin.* Univ. of Pa. Law Rev. May, 1941.

———. The power to tax; to destroy or to maintain. *Thomas Lavery.* State income taxation (cont.). *Roy G. Blakey* and *Violet Johnson.* State tax commissions; their history and reports (cont.). *Lewis W. Morse.* Taxes. May, June, 1941.

———. Cultural lag and the general property tax. *Mark C. Mills.* Sociology and Soc. Research. May–June, 1941.

Tax Delinquency. An example of county land management: Lincoln county, Wisconsin. *Philip M. Raup.* Jour. of Land and Pub. Util. Econ. May, 1941.

T.V.A. The seminar technique as an aid in achieving administrative and technical coördination. *Richard O. Niehoff* and *Calvin V. Davis.* Pub. Personnel Rev. Apr., 1941.

Trade Barriers. Trade barriers and national unity. *Robert C. Hendrickson.* State Govt. Apr., 1941.

———. Interstate trade barriers and state oleomargarine taxes. *William R. Pabst, Jr.* So. Econ. Jour. Apr., 1941.

———. A portion of that immense mass of legislation. *Harry J. Breithaupt, Jr.* Federal regulation of weights and sizes of interstate motor carriers. *J. Carter Fort, Jr.* Plant quarantine legislation. *Lewis J. Lamm.* Federal fiscal powers and the abatement of trade barriers. *Robert B. Hobbs.* The use of the federal antitrust laws to combat trade barriers. *Rice E. Schrimsher.* The oleomargarine taxes and Magnano Co. v. Hamilton. *Victor D. Behn.* Trade regulation in the local sphere. *Samuel M. Farha.* George Washington Law Rev. May, 1941.

———. Trade barriers and interstate commerce. *Earl S. Wolaver.* Am. Law School Rev. May, 1941.

Transportation. Transportation legislation of 1940. *Leslie A. Bryan.* Am. Law School Rev. May, 1941.

Unemployment. Will defense end unemployment? *Thomas J. Woofter.* Harper's. May, 1941.

Water Power. Is federal control of water power development incompatible with state interests? *John W. Scott.* George Washington Law Rev. Apr., 1941.

FOREIGN AND COMPARATIVE GOVERNMENT

Books and Pamphlets

Armstrong, Hamilton F. Chronology of failure; the last days of the French republic. Pp. 210. London: Macmillan. 1941.

Attlee, Clement R., and *Others.* Labour's aim in war and peace. Pp. 153. N.Y.: Rand School Press. 1941.

Barker, Ernest. The ideas and ideals of the British empire. Pp. 175. London: Cambridge Univ. Press. 1941.

Bataille, G. Inside the French courts. Pp. 288. London: Hutchinson. 1941.

Bonnard, Roger. La guerre de 1939–1940 et le droit public. Paris: Libr. gén. de droit et de juris. 1940.

Calder, Ritchie. Start planning Britain now; a policy for reconstruction. Pp. 64. London: Routledge. 1941.

Carr, Sir Cecil Thomas. Concerning English administrative law. Pp. 198. N.Y.: Columbia Univ. Press. 1941.

Cole, G. D. H. British working class politics. Pp. 320. London: Routledge. 1941.

Crick, F. W. An outline of war-time financial control in the United Kingdom. Pp. 59. London: Macmillan. 1941.

Dietze, Alexander. Die italienischen Korporationen. Pp. 58. Rochlitz: Vetter. 1940.

Echaiz, René León. Evolución histórica de los partidos políticos chilenos. Pp. 204. Santiago: Prensas de la Editorial Ercilla. 1939.

Franzero, C. M. Inside Italy. London: Hodder & Stoughton. 1941.

Green, O. M. China's struggle with the dictators. Pp. 259. London: Hutchinson. 1941.

Guillebaud, C. W. The social policy of nazi Germany. Pp. 142. N.Y.: Macmillan. 1941.

Harmon, George Dewey. Sixty years of Indian affairs; political, economic, and diplomatic, 1789–1850. Pp. 436. Chapel Hill (N.C.): Univ. of N. C. Press. 1941.

Hermens, F. A. Democracy or anarchy; a study of proportional representation. Pp. 400. Notre Dame (Ind.): Rev. of Politics, Univ. of Notre Dame. 1941.

How the soviet state is run. Pp. 128. London: Lawrence & Washbourne. 1941.

Jäger, Walter. England, das Selfgovernment, und die deutsche Selbstverwaltung. Pp. 88. Gelnhausen: Kalbfleisch. 1939.

MacAlpin, Michael. Mr. Churchill's socialists. Pp. 196. London: Lawrence & Washbourne. 1941.

Macmillan, W. M. Democratise the empire; a policy for colonial change. Pp. 64. London: Routledge. 1941.

Maritain, Jacques. France, my country, through the disaster. Pp. 126. N.Y.: Longmans. 1941.

Morgan, Thomas B. Spurs on the boot; Italy under her masters. Pp. 355. N.Y.: Longmans. 1941.

Nogaro, Bertrand. Problèmes contemporains de finances publiques. Paris: Domat-Montchrestien. 1940.

Price, John. Organised labour in the war. Pp. 176. N.Y.: Penguin Books. 1941.

Rüttgerott, Hans Hermann. Beitrag zum problem Grenzen der Polizeigewalt. Pp. 30. Hamburg: Preilipper. 1940.

Schledt, Wilhelm. Die Fürsorgepflicht des Staates für seine Beamten. Pp. 27. Hamburg: Hans. Gildendr. 1940.

Schwarz, Werner. Die neue Arbeitszeitregelung. Pp. 43. Freiburg i. Br.: Weis. 1940.

Slade, Caroline. Poor relief. Pp. 370. London: Constable. 1941.

Taylor, Alonzo E. Germany then and now. Pp. 32. N.Y.: Farrar & Rinehart. 1941.

Urquidi, Carlos W. La reforma constitucional en Bolivia. Pp. 239. La Paz: Editorial Universo. 1939.

Voznesensky, N. The growing prosperity of the soviet union. Pp. 47. N.Y.: Workers Lib. Pubs. 1941.

Weber, Gerhart. Der Staatsrat in den deutschen Einzelstaaten. Pp. 39. Borna-Leipzig: Noske. 1939.

Witten, Kurt. Völkisch-politische Dezentralisation und Reichsgliederung. Pp. 147. Wurzburg-Aumühle: K. Triltsch. 1940.

Wolffers, Artur. Die staatsrechtliche Stellung der Universität Zürich. Pp. 135. Zürich: Lang. 1940.

Articles

Administration. The law and the administration. *Sir Michael Myers.* Jour. of Pub. Admin. Dec., 1940.

Argentina. Argentines organize to defend democracy. *Ana Rosa de Martinez Guerrero.* Inter-Am. Quar. Apr., 1941.

Armies. Organized intelligence; the problem of the French general staff. *Stefan Th. Possony.* Soc. Research. May, 1941.

Brazil. This is Vargas. *John Gunther.* Current Hist. June, 1941.

British Empire. Notes on imperial constitutional law. *Berriedale Keith.* Jour. of Comp. Legis. and Int. Law. Feb., 1941.

———. Towards a regional empire. *Donald Cowie.* Pol. Quar. Apr.–June, 1941.

Canada. The Sirois report before the Ottawa conference. *H. D. Woods.* Official costs of Canadian elections. *James K. Pollock.* Highway costs and motor taxation. *Gilbert Walker.* Pub. Affairs. Mar., 1941.

———. Quebec's influence on Canadian defense policy. *Elizabeth H. Armstrong.* Inter-Am. Quar. Apr., 1941.

———. Total war and Canada's economic policy. *S. A. Saunders.* Dalhousie Rev. Apr., 1941.

———. A social dynamic for Canada? *Philip Child.* Univ. of Toronto Quar. Apr., 1941.

———. The impact of the war on Canadian political institutions. *R. MacGregor Dawson.* Canadian Jour. of Econ. and Pol. Sci. May, 1941.

China. Chiang's anti-communist coup d'état. *Ken-ichi Hatano.* Contemp. Japan. Apr., 1941.

Civil Service. Education and training of personnel in New Zealand. *Leslie Lipson.* Pub. Admin. Rev. Spring, 1941.

Education. The public schools. *F. McEachran.* Nine. Cent. Feb., 1941.

Egypt. Inside Egypt. *Zaky Eldin.* Current Hist. June, 1941.

Federalism. The federal dilemma. *J. A. Corry.* Canadian Jour. of Econ. and Pol. Sci. May, 1941.

Finland. Free Finland; the new chapter. *Frederick A. Gutheim.* Survey Graphic. Apr., 1941.

France. The intellectual sources of French fascism. *Herman Schnurer.* Antioch Rev. Spring, 1941.

Germany. National socialism and the German labor courts. *Taylor Cole.* Jour. of Politics. May, 1941.

Great Britain. Britain at war. *Lord Gorell.* Party government. *Sir Cuthbert Headlam.* Quar. Rev. Apr., 1941.

———. The fourth war budget. *Francis W. Hirst.* Contemp. Rev. May, 1941.

———. The home front war. *G. R. Strauss.* Fortnightly. May, 1941.

———. Planning for reconstruction. *Thomas Sharp.* The man-power problem. *G. D. H. Cole.* The ministry of supply. *Donald Tyerman.* Parliament in wartime. *H. R. G. Greaves.* Pol. Quar. Apr.–June, 1941.

———. Why Churchill? *P. G. Moir.* Battling Beaverbrook. Britain's leaders. *Charles Rolo.* Current. Hist. May, June, 1941.

———. The king's prerogative. *Viscount Caldecote.* Cambridge Law Jour. Vol. 7, no. 3. 1941.

India. Complications in India. Round Table. Mar., 1941.

———. Reflections on the Indian discontents. *L. F. Rushbrook Williams.* Nine. Cent. Mar., 1941.

———. India at the crossroads. *Marlen Eldredge.* Survey Graphic. Apr., 1941.

———. India's constitutional problem; suggested new approaches. *J. P. Eddy.* The Indian situation; the woman's point of view. *Lady Hartog.* Asiatic Rev. Apr., 1941.

Ireland. Inside Ireland. *An Irish Correspondent.* Fortnightly. May, 1941.

Japan. The principles of the new economic structure. *Yohji Minobe.* The wartime non-party diet. *Isojiro Furusawa.* The cabinet, the diet, and the taisei yokusan kai. *Shin-ichi Fujii.* Contemp. Japan. Feb., Apr., 1941.

———. Japan's economic strength and weakness. *A. J. B.* Bull. of Int. News. Mar. 8, 1941.

———. Japan's "new structure" falters. *T. A. Bisson.* Amerasia. May, 1941.

Jugoslavia. Yugoslavia; the land and its people. *M. B.* and *L. R. L.* Bull. of Int. News. Apr. 19, 1941.

Labor. Latin America and the international labour standards. *D. H. Blelloch.* Int. Labour Rev. Apr., 1941.

———. Canadian labor at war. *Tom Moore.* Am. Federationist. May, 1941.

———. Labor under Hitler. *Ludwig Hamburger.* Am. Mercury. June, 1941.

Latin America. Latin America; soil for democracy? *Lewis Hanke.* Harper's. June, 1941.

New Zealand. The administration of the state advances corporation. *A. D. Park.* Jour. of Pub. Admin. Dec., 1940.

———. One hundred years of legislative development in New Zealand. *H. G. R. Mason.* Jour. of Comp. Legis. and Int. Law. Feb., 1941.

Philippines. The Filipino replies. *Carlos P. Romulo.* Amerasia. May, 1941.

Radio. The B. B. C. in wartime. *Albert John.* Pol. Quar. Apr.–June, 1941.

Regionalism. The regional commissioners. *Regionaliter.* Pol. Quar. Apr.–June, 1941.

Reporting. A comparison of financial reports; Canadian, United States, and British. *E. T. Sampson.* Mun. Finance. May, 1941.

Russia. Development of industrial production in the U.S.S.R. *A. Baykov.* Economica. Feb., 1941.

———. The silent soviet revolution. *Bertram D. Wolfe.* Harper's. June, 1941.

Social Security. Canadian unemployment insurance in the light of foreign experience. *P. Waelbroeck.* Pub. Affairs. Mar., 1941.

Thailand. Thailand renascent. *John L. Christian.* Pacific Affairs. June, 1941.

Transportation. Coördination of road and rail transport and the organization of the trucking industry; a survey. *Ludwig M. Homberger.* Jour. of Land and Pub. Util. Econ. May, 1941.

War Economy. War economy and finance. Round Table. Mar., 1941.

———. The food problem in the German war economy. *Frederick Strauss.* Quar. Jour. of Econ. May, 1941.

———. Must a war economy be permanent? *Peter F. Drucker.* Harper's. May, 1941.

INTERNATIONAL RELATIONS

Books and Pamphlets

Abend, Hallett. Japan unmasked. Pp. 322. N.Y.: Ives Washburn. 1941.

Agar, William. Food or freedom; the vital blockade. Pp. 32. N.Y.: Farrar & Rinehart. 1941.

Armstrong, George Gilbert. Why another world war? How we missed collective security. Pp. 224. N.Y.: Macmillan. 1941.

Baare-Schmidt, Hans-Georg. Die territorialen Rechtsverhältnisse der Antarktis. Pp. 131. Heidelberg: Fr. Schulze. 1940.

Baldwin, Hanson W. United we stand; defense of the western hemisphere. Pp. 374. N.Y.: Whittlesey House. 1941.

Bartlett, Sir Basil Hardington. My first war; an army officer's journal for May, 1940; through Belgium to Dunkirk. Pp. 131. N.Y.: Macmillan. 1941.

Beausobre, Julia de. The tragedy of France and the testing of England. London: Dacre Press. 1941.

Beckett, Grace. The reciprocal trade agreements program. Pp. 155. N.Y.: Columbia Univ. Press. 1941.

Bisson, T. A. Shadow over Asia; the rise of militant Japan. Pp. 96. N.Y.: For. Policy Assoc. 1941.

Burns, C. Delisle. After war, peace? Pp. 48. London: C. A. Watts. 1941.

Cammaerts, Emile. The situation of Belgium, September, 1939–January, 1941. London: Evans Bros. 1941.

Cecil, Algernon. Facing the facts in foreign policy. Pp. 129. London: Eyre & Spottiswoode. 1941.

Chéradame, André. Defense of the Americas. Pp. 355. N.Y.: Doubleday. 1941.

Constantopoulos, Demetrios S. Zur Nationalitätenfrage Südosteuropas. Pp. 228. Würzburg-Aumühle: K. Triltsch. 1940.

Diebold, William, Jr. New directions in our trade policy. Pp. 184. N.Y.: Council on For. Rels. 1941.

Einzig, Paul. Europe in chains. Pp. 127. N.Y.: Penguin Books. 1941.

Europe under Hitler; in prospect and in practice. Pp. 45. London: Royal Inst. of Int. Affairs. 1941.

Gaulle, General Charles de. The army of the future. Pp. 179. Phila.: Lippincott. 1941.

Gayn, Mark J. The fight for the Pacific. Pp. 390. N.Y.: Morrow. 1941.

Gordon, Margaret S. Barriers to world trade; a study of recent commercial policy. Pp. 530. N.Y.: Macmillan. 1941.

Heymann, Hans. Plan for permanent peace. Pp. 335. N.Y.: Harper. 1941.

Ingersoll, Ralph M. America is worth fighting for. Pp. 152. Indianapolis (Ind.): Bobbs-Merrill. 1941.

Irish question today. Pp. 52. London: Gollancz. 1941.

Jackson, J. H., and *Lee, K.* Problems of modern Europe; the facts at a glance. Pp. 128. London: Cambridge Univ. Press. 1941.

Jerrold, Douglas. Britain and Europe, 1900–40. Pp. 195. London: Collins. 1941.

Latané, John H., and *Wainhouse, David W.* A history of American foreign policy, 1776–1940. Pp. 1028. N.Y.: Doubleday. 1941.

McClure, Wallace M. International executive agreements; democratic procedure under the constitution of the United States. Pp. 471. N.Y.: Columbia Univ. Press. 1941.

Maddox, William P., ed. America and Japan. Pp. 181. (Annals Am. Acad. Pol. and Soc. Sci., May, 1941). Phila.: Am. Acad. Pol. & Soc. Sci.

Mander, Linden A. Foundations of modern world security. Pp. 600. Stanford University (Calif.): Stanford Univ. Press. 1941.

Pieck, Wilhelm. International solidarity against imperialist war. Pp. 46. N.Y.: Workers Lib. Pubs. 1941.

Prentiss, Augustin M. Civil air defense. Pp. 349. N.Y.: Whittlesey House. 1941.

Puleston, William D. The armed forces of the Pacific; a comparison of the military and naval power of the United States and Japan. Pp. 287. New Haven (Conn.): Yale Univ. Press. 1941.

Reed, Clarence, ed. Great prophecies about the war. Pp. 64. London: Faber & Faber. 1941.

Reith, Charles. Police principles and the problem of war. Pp. 160. N.Y.: Oxford Univ. Press 1941.

Richmond, Sir Herbert W. British strategy, military and economic; a historical review of its contemporary lessons. Pp. 165. N.Y.: Macmillan. 1941.

Richmond, Sir Herbert W. The invasion of Britain. Pp. 86. London: Methuen. 1941.

Robledo, Antonio Gomez. The Bucareli agreements and international law. Pp. 229. Mexico City: Nat. Univ. of Mex. Press. 1940.

Roth, Andrew. Japan strikes south; the story of French Indo-China passing under Japanese domination. Pp. 108. N.Y.: Inst. of Pacific Rels. 1941.

Schuman, Frederick L. International politics; the western state system in transition. 3rd ed. Pp. 758. N.Y.: McGraw-Hill. 1941.

Showman, Richard K., and *Judson, Lyman Spicer*, comps. The Monroe doctrine and the growth of western hemisphere solidarity. Pp. 302. N.Y.: H. W. Wilson. 1941.

Soward, F. H., and *Others.* Canada in world affairs; the pre-war years. Pp. 356. N.Y.: Oxford Univ. Press. 1941.

Staudinger, Hans. The future of totalitarian barter trade. Pp. 24. N.Y.: Peace Research Project, Grad. Faculty of Pol. and Soc. Sci. 1940.

Stavross, G. Le statut du Dodécanèse en droit international. Paris: Domat-Montchrestien. 1940.

Tamagna, Frank M. Italy's interests and policies in the far east. Pp. 104. N.Y.: Inst. of Pacific Rels. 1941.

Trevor, Bronson. The United States gold purchase program; its failure and an alternative proposal. Pp. 31. Wash.: Nat. Republic. 1941.

Warburg, James P. Our war and our peace. Pp. 250. N.Y.: Farrar & Rinehart. 1941.

Warburg, James P. The isolationist illusion and world peace. Pp. 32. N.Y.: Farrar & Rinehart. 1941.

Wenner, Giovanni. Willensmängel im Volkerrecht. Pp. 332. Zürich: Polygraph. Verl. 1940.

Werner, Max. Battle for the world; the strategy and diplomacy of the second world war. Pp. 403. N.Y.: Modern Age Books. 1941.

Williams, Francis. What are we fighting for? A call to Britain. Pp. 64. London: Routledge. 1941.

Wintergerst, Wilhelm. Die staatsrechtliche Stellung Österreichs nach dem Anschluss. Pp. 85. Freiburg i. Br.: Rotaprintdruck. 1939.

Wriston, Henry M. Prepare for peace! Pp. 285. N.Y.: Harper. 1941.

Yuan Shih-Pin. La réforme de la société des nations. Paris: Sirey. 1940.

Zaharieff, Malornit. Les minorités bulgares en Roumanie. Paris: Domat-Montchrestien. 1940.

Articles

Adriatic. The problem of the Adriatic. *A. S. Elwell-Sutton.* Contemp. Rev. May, 1941.

Aërial Warfare. Limitations of air warfare. *Howard S. Leroy.* Air Law Rev. Jan., 1941.

Albania. Die politisch-volkerrechtliche Entwicklung Albaniens 1913–1939. *Herbert Monath.* Zeitschrift f. Völkerrecht. Vol. 24, no. 3. 1940.

American Foreign Relations. Die Neutralitätspolitik der Vereinigten Staaten seit Beginn des Krieges. *Ulrich Scheuner.* Monatshefte f. Auswärtige Politik. Feb., 1941.

———. "American public opinion toward Japan." *Kiyo Sue Inui.* Effects of the European war on the United States. *Kanamé Wakasugi.* America can do no wrong. *Yoshitaro Kusuyama.* Contemp. Japan. Feb., Apr., 1941.

———. The American arsenal. Round Table. Mar., 1941.

———. American aid to Britain. *A. J. B.* Bull. of Int. News. Mar. 22, 1941.

———. Why Lindbergh is wrong. *Alexander P. de Seversky.* The Japanese don't understand us. *Robert Aura Smith.* Am. Mercury. May, 1941.

———. How America can take the offensive: I. *Edmond Taylor.* II. *Edgar Snow.* Fortune. May, June, 1941.

———. America's last step before belligerency. *A. Th. Polyzoides.* World Affairs Interpreter. Spring, 1941.

———. America's strategy against Japan. *Rear Admiral Gumpei Sekine.* Pacific Affairs. June, 1941.

———. America's destiny. *Basil C. Walker.* Current Hist. June, 1941.

Atlantic. The Atlantic. *H. G. Thursfield.* Nat. Rev. Apr., 1941.

Australia. Australien im Kriege. *Heinz Lehmann.* Monatshefte f. Auswärtige Politik. Feb., 1941.

Austria. What about Austria? *S. Wolf.* Contemp. Rev. Apr., 1941.

Balkans. The Balkan theatre. *Sir Charles Gwynn.* Fortnightly. Apr., 1941.

Baltic. The Baltic victims of the present war. *Kazys Pakstas.* World Affairs Interpreter. Spring, 1941.

British Empire. The mobilisation of the British commonwealth. *Earl Winterton.* Quar. Rev. Apr., 1941.

British Foreign Relations. British foreign policy, 1919–39: VII, England and Germany, 1936–8; VIII, After Munich. *G. P. Gooch.* Contemp. Rev. Apr., May, 1941.

Canada. Realism in foreign policy. *F. A. Carman.* Dalhousie Rev. Apr., 1941.

———. Canada and the balance of world power. *R. A. MacKay.* Canadian Jour. of Econ. and Pol. Sci. May, 1941.

Caribbean. Future of the British Caribbean. *W. Adolphe Roberts.* Survey Graphic. Apr., 1941.

Colonies. Deutsch-Ostafrika; ein 50 jähriger Gedenktag. *Heinrich Schnee.* Berliner Monatshefte. Mar., 1941.

———. Die Rechtsverhältnisse der Eingeborenen in den afrikanischen Kolonien Portugals. *Kurt Martin.* Zeitschrift f. vergleichende Rechtswissenschaft. Vol. 54, no. 3. 1941.

Europe. The problem of European security. *W. W. Coole.* Nine. Cent. Apr., 1941.

———. The new central Europe. *Edvard Beneš.* The last mile of appeasement. *Josef Hanč.* Jour. of Central European Affairs. Apr., 1941.

Far East. Die französisch-thailändische Spannung. *Otto Weise.* Monatshefte f. Auswärtige Politik. Feb., 1941.

———. Der Chinakonflikt im vierten Kriegsjahr. *Heinrich Betz.* Berliner Monatshefte. Mar., 1941.

———. Thailand, Indo-China, and Japan's south sea policy. *M. C.* Bull. of Int. News. Mar. 8, 1941.

———. The Japanese don't like it either. *William S. Husk.* China's internal friction aids Japan. *Asiaticus.* Amerasia. May, 1941.

———. Monopoly control of agriculture in Manchuria. *John R. Stewart.* Strategy of the Sino-Japanese war. *Evans F. Carlson.* Far Eastern Survey. Apr. 21, May 19, 1941.

———. After four years. *O. L.* Eighth route regions in north China. *Anna Louise Strong.* Economic and living standards; American and Asiatic. *William Brandt.* Pacific Affairs. June, 1941.

France. France's trials. *Elie J. Bois.* Contemp. Rev. May, 1941.

Germany. Germany's "great urge." *Robert Strausz-Hupé.* Current Hist. May, 1941.

———. Drang nach dem Süden. *Ernst Klein.* Fortnightly. May, 1941.

Greece. Greece, her friends and foes, I and II. *Demetrius Caclamanos.* Contemp. Rev. Apr., May, 1941.

Hungary. Ungarns Aussenpolitik seit dem Weltkriege. *Gustav Gratz.* Berliner Monatshefte. Mar., 1941.

Imperialism. Four secrets of empire. *Ernest O. Hauser.* Harper's. June, 1941.

India. India against Hitler. *R. G. Shahani.* Nine. Cent. Feb., 1941.

———. Britain's faithful ally in the great war. *B. S. Townroe.* If the nazis ruled India. *Stanley Rice.* Asiatic Rev. Apr., 1941.

———. India's war effort. *J. C. French.* Nat. Rev. May, 1941.

Inter-American Relations. Der Gedanke der Sicherheit Amerikas auf den Konferenzen von Panama und Habana und die Monroedoktrin. *Ulrich Scheuner.* Zeitschrift f. Völkerrecht. Vol. 24, no. 3. 1940.

———. Defense of the Americas; the recent trend toward coöperation. *J. Lloyd Mecham.* Southwest Rev. Winter, 1941.

———. The basis of Pan Americanism; a footnote. *Russell H. Fitzgibbon.* Inter-Am. Quar. Apr., 1941.

———. United nations of America. *Harry Frease.* New Commonwealth Quar. Apr., 1941.

———. Latin America: I, Defence. *M. B.* II, Economic problems and western hemisphere defence. *A. J. B.* Bull. of Int. News. Apr. 5, 1941.

———. The U. S. A.; Canada's problem. *J. Bartlett Brebner.* The western hemisphere; a symposium. *Rodolfo Michels, F. Cyril James* and *A. A. Berle, Jr.* Survey Graphic. Apr., May, 1941.

———. River Plate regional conference. *Ross N. Berkes.* World Affairs Interpreter. Spring, 1941.

———. We owe Canada a break. *Merrill Denison.* Harper's. June, 1941.

International Labor Organization. The I. L. O. at Montreal. *Carter Goodrich.* Canadian Jour. of Econ. and Pol. Sci. May, 1941.

International Law. Status of the home guard in international law. *J. Mervyn Jones.* Law Quar. Rev. Apr., 1941.

———. The effects of peace treaties upon private rights. *A. D. Mc Nair.* Cambridge Law Jour. Vol. 7, no. 3. 1941.

International Relations. The problem of international planning. *Georg Schwarzenberger.* New Commonwealth Quar. Apr., 1941.

———. The new world order. *Edward Bell.* Psychological factors in international friction. *Elam J. Anderson.* World Affairs Interpreter. Spring, 1941.

International Trade and Finance. Our past foreign trade policy and the new order. *Nobutaro Kawashima.* Contemp. Japan. Feb., 1941.

———. British trade with the Netherlands East Indies. *L. H. Cripps.* Asiatic Rev. Apr., 1941.

———. South America's foreign trade and hemisphere defense. *J. Fred Rippy.* Jour. of Business. Apr., 1941.

———. A scheme for handling Latin American debts. *Boris Eliacheff.* The evolution of economic coöperation in the hemisphere. *D. M. Phelps.* The forest resources and timber trade of Latin America. *Ivan M. Elchibegoff.* United States trade with Latin America in 1940. *H. W. D. Mayers.* Inter-Am. Quar. Apr., 1941.

———. The China trade. Fortune. May, 1941.

———. Post-war policies for international trade. *E. Raymond Streat.* Fortnightly. May, 1941.

———. The United States market for Argentine exports. *John M. Leddy.* Bull. Pan Am. Union. May, 1941.

———. Shipping crisis in the Pacific. *Daniel Marx, Jr.* Far Eastern Survey. May 5, 1941.

Ireland. Northern Ireland and the war. Round Table. Mar., 1941.

———. Eire's neutrality. *James Monahan.* Northern Ireland and neutrality. *Robert Corkey.* Nine. Cent. Feb., May, 1941.

Italy. The Italian reverses. *John Charteris.* Nine. Cent. Apr., 1941.

Japan. Japan's lost opportunities. *A. Morgan Young.* Contemp. Rev. Apr., 1941.

———. Whither Japan? *Kurt Bloch.* Soc. Research. May, 1941.

———. Japan's new order in the Pacific. *William Magistretti.* Pacific Affairs. June, 1941.

Jewry. In Soviet Poland and Lithuania. *David Grodner.* Jewish history nazified. *Bernard D. Weinryb.* The Canadian community; a review. *Abraham G. Duker.* Contemp. Jewish Record. Apr., 1941.

Jugoslavia. Jugoslavia and the Balkan campaign. *George Glasgow.* Contemp. Rev. May, 1941.

Labor. International migration and the formation of an international labor market from the viewpoint of a small country. *Arne Skaug.* Social Forces. May, 1941.

Latin America. Hitler on the river Plata. *Otto Strasser.* Current Hist. May, 1941.

———. Latin America views the present war. *Edward O. Guerrant.* World Affairs Interpreter. Spring, 1941.

League of Nations. Resurrection of the league. *H. Lauterpacht.* Pol. Quar. Apr.–June, 1941.

Middle East. The Arabs, Great Britain, and Germany. *Rom Landau.* Asiatic Rev. Apr., 1941.

———. The middle east. *Sir Charles Gwynn.* Fortnightly. May, 1941.

Mohammedanism. Muslim political influences in the world today. *Sirdar Iqbal Ali Shah.* Islamic support in the war. *H. H.* Asiatic Rev. Apr., 1941.

Naval Bases. Naval and air bases in the Pacific. Bull. of Int. News. Mar. 22, 1941.

———. The island sites. *W. M. Cousins.* Nine. Cent. Apr., 1941.

Navies. The twilight of sea power. *Alexander P. de Seversky.* Am. Mercury. June, 1941.

Near East. Policy and strategy in the near east. *John Charteris.* Nine. Cent. May, 1941.

Netherlands. The Netherlands in the new order. *L. de Jong.* Fortnightly. May, 1941.

Occupied Countries. Control of the conquered. *Erich Hula.* Soc. Research. May, 1941.

Palestine. Palestine under war conditions. *M. B.* Bull. of Int. News. Mar. 22, 1941.

Poland. Poland and the new Europe. *Tytus Filipowicz.* Fortnightly. Apr., 1941.

Press. German censorship instructions for the Czech press. *Ernst Kris.* Soc. Research. May, 1941.

Propaganda. Subversive propaganda, the past and the present. *J. W. Brabner Smith.* Georgetown Law Jour. Apr., 1941.

———. Enemy propaganda in the United States. *Carlo Sforza.* Dalhousie Rev. Apr., 1941.

———. The poison in our system. *Carl Joachim Friedrich.* Atlan. Mo. June, 1941.

Raw Materials. Malaya's mineral resources and the war. *Sir Lewis Fermor.* Asiatic Rev. Apr., 1941.

Rumania. Rumania and the future of central Europe. *V. V. Tilea.* Contemp. Rev. Apr., 1941.

Russia. The key of soviet foreign policy. *A. S. Elwell Sutton.* Nat. Rev. Apr., 1941.

———. The Russian enigma. *Karol Thaler.* Empire Rev. Apr., 1941.

———. The Soviet-Japanese neutrality pact. *Philip J. Jaffe.* Amerasia. May, 1941.

———. Stalin takes his choice. *Robert Strausz-Hupé.* Current Hist. June, 1941.

St. Lawrence Seaway. Should the proposed Great Lakes-St. Lawrence seaway be approved by congress? *Symposium.* Cong. Digest. May, 1941.

———. St. Lawrence in difficulty. *Andrew Barnes.* Pub. Util. Fort. June 5, 1941.

Self-Determination. National self-determination and the right of the majority. *Edwin Kerr.* New Commonwealth Quar. Apr., 1941.

Small Nations. Twilight or dawn for the small nations. *Otakar Odložilik.* Jour. of Central European Affairs. Apr., 1941.

Spain. Spain in the war. *H. W. Hilborn.* Dalhousie Rev. Apr., 1941.

———. General Franco and the axis. *E. Allison Peers.* Fortnightly. Apr., 1941.

Sweden. Neutral Sweden. *R. O. G. Urch.* Fortnightly. Apr., 1941.

Transylvania. Ordeal in Transylvania. *Transylvanus.* Jour. of Central European Affairs. Apr., 1941.

Turkey. The leaders of Turkey today. *Ikbal Ali Shah.* Contemp. Rev. May, 1941.

Vatican. The Pope, Italy, and the war. *Douglas Woodruff.* Nine. Cent. Feb., 1941.

War and Peace. Preparing for the new world order. *Toshio Shiratori.* Contemp. Japan. Apr., 1941.

———. Germany after the war. *William H. Dawson.* Machines and men in war. *Victor Wallace Germains.* Contemp. Rev. Apr., 1941.

———. Jewish studies of peace and post-war problems. *Morris R. Cohen.* Contemp. Jewish Record. Apr., 1941.

———. Group psychology and war. *Ian D. Suttie.* New Commonwealth Quar. Apr., 1941.

———. Reconstruction. *Viscount Sankey.* What next? *John Charteris.* The value of air power. *F. A. de V. Robertson.* The campaign of the army of the Nile. *John Charteris.* Air activity and a lull. *F. A. de V. Robertson.* Two fronts in the air. *F. A. de V. Robertson.* The meaning of Matapan. *H. C. Ferraby.* Nine. Cent. Feb., Mar., Apr., May, 1941.

———. Some problems of German hegemony. *Eric Voegelin.* Jour. of Politics. May, 1941.

———. The battle of Cape Matapan. *H. G. Thursfield.* First moves. *Jules Menken.* What we are fighting for. *J. H. Morgan.* Nat. Rev. May, 1941.

———. Invasion of England. *W. L. White.* Atlan. Mo. May, 1941.

———. Toward a new world order. *Vera Micheles Dean.* For. Policy Rep. May 15, 1941.

———. Can insomnia conquer England? *Iago Galdston.* Blueprint for an enduring peace. *Bertrand Russell.* Am. Mercury. May, June, 1941.

———. War aims. *Henry G. Alsberg.* Antioch Rev. Spring, 1941.

———. Can democracy win the peace? *Vera Micheles Dean.* Survey Graphic. June, 1941.

JURISPRUDENCE

Books and Pamphlets

Feinsinger, Nathan Paul. Cases and materials on labor law. Pp. 637. Madison (Wis.): College Typing Co. 1940.

Gavit, Bernard C., ed. Blackstone's commentaries on the law. Pp. 1060. Wash.: Wash. Law Book Co.

Hadley, Morris. The citizen and the law. Pp. 372. N.Y.: Farrar & Rinehart. 1941.

Healy, William, and *Alper, Benedict S.* Criminal youth and the Borstal system. Pp. 257. N.Y.: Commonwealth Fund. 1941.

Hoffmann, Alfred. Unfruchtbarmachung und Kriminalität. Pp. 105. Bottrop i. W.: Postberg. 1940.

Knox, Sarah T. The family and the law. Pp. 208. Chapel Hill (N.C.): Univ. of N.C. Press. 1941.

Niederer, Werner. Die Frage der Qualifikation als Grundproblem des internationalen Privatrechts. Pp. 107. Zürich: Polygraph. Verl. 1940.

Panken, Jacob. The child speaks; the prevention of juvenile delinquency. Pp. 354. N.Y.: Holt. 1941.

Picard, Claude. Organisation et fonctionnement de la justice militaire. Paris: Sirey. 1940.

Sellin, Thorsten. The criminality of youth. Pp. 116. Phila.: Am. Law Inst. 1940.

Zurbrügg, Henri. Die Radiostörungen als Rechtsproblem. Pp. 227. Bern: Stämpfli. 1939.

Articles

Air Law. Das Flugwesen als Quelle neuer Rechtsfragen. *Wilh. Troitzsch.* Zum Urteil das Reichsgerichts vom 5. Juli 1939. *Hans-Herbert Wimmer.* Fluggastunfall und Sozialversicherung. *Günter Haupt.* Haftet die Luftverkehrsgesellschaft dem Postversender? *Günther Teichmüller.* Flughafen-Nachbarrecht und Entschädigung im französischen Luftrecht. *Hans John.* Lärmschäden durch Luftfahrzeuge. *Johannes Bärmann.* Archiv f. Luftrecht. Vol. 10, no. 3–4. 1940.

Arbitration. Divide and conquer; the menace of disputes to national defense. *Frances Kellor.* Mobilization of voluntary arbitration resources. *Evan E. Young.* Conciliation and national defense. *John R. Steelman.* The effect of the war on labor arbitration in Europe. *I. Bessling.* Arbitration Jour. Spring, 1941.

Bar. Report of the Cincinnati conference on law and lawyers in the modern world. Univ. of Cincinnati Law Rev. Mar., 1941.

———. English lawyers and law schools. *George W. Rightmire.* Ohio State Univ. Law Jour. Mar., 1941.

———. Lawyers in Germany. *Arno A. Herzberg.* Am. Bar Assoc. Jour. May, 1941.

Comparative Law. The new Italian civil code. *Mario Sarfatti.* Jour. of Comp. Legis. and Int. Law. Feb., 1941.

———. Judicial decisions as a source of Scots law. *John C. Gardner.* Jurid. Rev. Mar., 1941.

———. Cause in the civil law and consideration in the common; much ado about nothing. *Robert L. Henry.* Ky. Law Jour. May, 1941.

Conflict of Laws. The finality of judgments in the conflict of laws. Columbia Law Rev. May, 1941.

———. Die Anknüpfung des zwingenden Schuldrechts im internationalen Privatrecht; eine rechtsvergleichende Studie. *Wilhelm Wengler.* Zeitschrift f. vergleichende Rechtswissenschaft. Vol. 54, no. 3. 1941.

Corporation Law. Effect of recent legislation on the practice of the law of business associations. *Paul J. Bickel.* Ohio State Univ. Law Jour. Mar., 1941.

Criminal Law. The determination of insanity in criminal cases. *Sam Parker.* Cornell Law Quar. Apr., 1941.

———. 21 years of criminal justice. *Margery Fry.* Pol. Quar. Apr.–June, 1941.

Evidence. Expert testimony as an "invasion of the province of the jury." Ia. Law Rev. May, 1941.

Judiciary. The use of experts by the courts. *J. H. Beuscher.* Harvard Law Rev. May, 1941.

Jurisprudence. Jurisprudence on parade. *Hessel E. Yntema.* Mich. Law Rev. May, 1941.

———. Substance and procedure. *Albert Kocourek.* St. Thomas More as judge and lawyer. *Garrard Glenn.* Fordham Law Rev. May, 1941.

Jury. Instruction to jury in criminal cases. *W. S. Stewart.* Hints to a young lawyer on picking a jury. *W. H. Arpaia.* John Marshall Law Quar. Mar., 1941.

———. Appeals from jury verdicts. *Joseph F. Berry.* Conn. Bar Jour. Apr., 1941.

———. Jury trial tragic but not entirely hopeless. *Claude C. Coffin.* Jour. of Am. Judicature Society. June, 1941.

Law. The reign of law. *William S. Culbertson.* Dickinson Law Rev. May, 1941.

Legal Aid. Legal aid for the poor. *A. H. Hassard Short.* Jour. of Comp. Legis. and Int. Law. Feb., 1941.

Legal History. Ethnic backgrounds of law. *Wilson D. Wallis.* Minn. Law Rev. May, 1941.

Legal Philosophy. Was hat Robert Mayers Kausallehre dem Juristen zu bieten? *Alwin Mittasch.* Bemerkungen zu A. Mittasch; was hat Robert Mayers Kausallehre dem Juristen zu bieten? *Karl Engisch.* Der Begriff der Rechtsnorm in der deutschen Philosophie der Gegenwart. *Otto v. Schweinichen.* Archiv f. Rechts- und Sozialphilosophie. Oct., 1940.

———. Major problems of the sociology of law. *Georges Gurvitch.* Jour. of Soc. Philos. Apr., 1941.

Marriage and Divorce. Illinois matrimonial law; some needed changes in the law of marriage and divorce. *Arthur Goldblatt.* John Marshall Law Quar. Mar., 1941.

———. Common law marriage. *Herbert Myerberg.* Georgetown Law Jour. Apr., 1941.

Negligence. Ten years of comparative negligence. *Richard V. Campbell.* Wis. Law Rev. May, 1941.

Oil and Gas. A symposium on the law of oil and gas. Miss. Law Jour. Mar., 1941.

Press. The right of reply to libels in the press. *Ignace Rothenberg.* Jour. of Comp. Legis. and Int. Law. Feb., 1941.

Procedure. Pre-trial procedure. *Harry Gershenson.* The general denial in Missouri. *J. J. Thyson.* Wash. Univ. Law Quar. Apr., 1941.

———. Pre-trial; optional or mandatory? *Richard H. Phillips.* Conn. Bar Jour. Apr., 1941.

———. Give pre-trial a trial. *Carl A. Weinman.* Jour. of Am. Judicature Society. June, 1941.

Radio. Defamation by radio. *J. F. Finlay.* Canadian Bar Rev. May, 1941.

Statutory Interpretation. Effect of increased congressional power upon statutory construction of existing laws; the Bunte case. Yale Law Jour. May, 1941.

Summary Judgment. Summary judgment procedure in the Philippines. *Rosa Santos.* Philippine Law Jour. Mar., 1941.

———. Summary judgments and a proposed rule of court. *Charles E. Clark.* Jour. of Am. Judicature Society. June, 1941.

LOCAL GOVERNMENT

Books and Pamphlets

Bureau of Municipal Research, University of Texas. Units of local government in Texas. Pp. 221. Austin: Univ. of Texas Press. 1941.

Bureau of Municipal Research, University of Texas. An analysis of ad valorem property tax bases in Ft. Worth. Pp. 99. Austin: Univ. of Texas Press. 1941.

Landers, Frank M. Units of government in Michigan. Pp. 43. Ann Arbor (Mich.): Bur. of Govt., Univ. of Mich. 1941.

Mitchell, Helen Swift. Fire-fighters; the story of fire protection, past and present. Pp. 35. Evanston (Ill.): Row, Peterson. 1941.

New England Regional Planning Commission. Is planning practical for *your* town? Rev. ed. Pp. 42. Boston: Nat. Resources Planning Board. 1940.

Nicholson, Joseph W. County purchasing. Pp. 61. N.Y.: Nat. Assoc. of Purchasing Agents. 1940.

Pumphrey, George H. The story of Liverpool's public services. Pp. 217. London: Hodder & Stoughton. 1940.

Stone, Harold A., and *Others*. City manager government in Kingsport (Tenn.). Pp. 29. Chicago: Pub. Admin. Service. 1940.

Vieg, John Albert. City manager government in Ames (Iowa). Pp. 22. Chicago: Pub. Admin. Service. 1940.

White, Howard. City manager government in Hamilton (Ohio). Pp. 59. Chicago: Pub. Admin. Service. 1940.

Articles

Accounting. Determining the current financial position of a city. *Arthur N. Lorig*. Accounting Rev. Mar., 1941.

Budgeting. Local budgetary reform and review. *Edwin E. Warner*. Ill. Law Rev. Feb., 1941.

Building Regulation. Building codes; administration vs. techniques. *Howard P. Vermilya*. Jour. of Land and Pub. Util. Econ. May, 1941.

Cities. Economic background of cities. *Homer Hoyt*. Jour. of Land and Pub. Util. Econ. May, 1941.

Civic Organizations. P.C.P.A. carries on thirty-five-year tradition. *W. Brooke Graves*. Nat. Mun. Rev. May, 1941.

County Government. Delegation of police power to counties. *Herman Walker, Jr.* La. Law Rev. Mar., 1941.

———. Common sense at the courthouse. *Karl Detzer*. Nat. Mun. Rev. Apr., 1941.

Debt Limits. Computing municipal indebtedness under Pennsylvania constitutional limitations. *Daniel J. Snyder, Jr.* Univ. of Pittsburgh Law Rev. Mar., 1941.

Defense. British cities and the defense of Britain. *Malcolm MacDonald*. Organization and function of local defense councils. *Howard Gardner*. National defense comes to town. *Charles F. Ernst*. Western City. May, 1941.

———. National defense and the cities. *Daniel W. Hoan*. Nat. Mun. Rev. May, 1941.

Education. New York's six-year progressive education experiment. *Benjamin Fine*. Am. Mercury. June, 1941.

Finance. Recent municipal spending. *Amy Hewes* and *Assistants*. Social Forces. May, 1941.

Fire Protection. Fire insurance rates in your city. *C. W. Soderstrom*. Ill. Mun. Rev. May, 1941.

Health. The public health engineer in municipal health practice. *H. F. Vaughan*. The public health engineer and the city health officer. *Abel Wolman*. Am. Jour. of Pub. Health. May, 1941.

Indemnity Bonds. Indemnity and performance bonds of municipalities. *A. L. Edgarton*. The Municipality. May, 1941.

Intergovernmental Relations. Intergovernmental contracts in California. *Frank M. Stewart* and *Ronald M. Ketcham*. Pub. Admin. Rev. Spring, 1941.

Local Government. Local government today. *Howard White*. Social Education. Apr., 1941.

Metropolitan Areas. Chicago; metropolis in the making. *Albert Lepawsky*. Nat. Mun. Rev. Apr., 1941.

———. Metropolitan Atlanta. *Doris Darmstadter*. Nat. Mun. Rev. May, 1941.

———. The London region; a metropolitan community in crisis. *Albert Lepawsky*. Am. Jour. of Sociol. May, 1941.

Newfoundland. Municipal government in Newfoundland. *H. B. Mayo*. Pub. Affairs. Mar., 1941.

New Zealand. Early urban government in New Zealand. *W. E. Parry.* Jour. of Pub. Admin. Dec., 1940.

Personnel. A case study in employee morale. *Harry Fite.* Pub. Personnel Rev. Apr., 1941.

Planning. Some highlights of urban redevelopment. *Earle S. Draper.* Pub. Management. May, 1941.

———. For more effective urban planning. *Robert A. Walker.* Am. City. May, 1941.

Police. Salaries and working conditions in police departments. Monthly Labor Rev. Apr., 1941.

———. Selling police work to the public. *John B. Massen.* Pub. Management. May, 1941.

———. Police training program deserves support. *Harry N. Tompkins.* Minn. Municipalities. May, 1941.

Politics. Ward boss. *Geoffrey Parsons, Jr.* and *Robert M. Yoder.* Survey Graphic. Apr., 1941.

Public Relations. The need for a town forum. *Fred A. Cuthbert.* Commonwealth Rev. Mar., 1941.

Public Utilities. Ouster after expiration of franchise; the Geneseo case again. *A. L. Stein.* Jour. of Land and Pub. Util. Econ. May, 1941.

Purchasing. Public purchasing methods; Los Angeles county and city. *Paul Beckett.* Tax Digest. June, 1941.

Reporting. Education of a citizen. *Miriam Roher.* Nat. Mun. Rev. Apr., 1941.

———. Local government is news. *Phillips Bradley.* Am. City. May, 1941.

———. A comparison of the financial reports of public and private corporations. *F. L. Bird.* Financial reporting and financial statistics. *C. E. Rightor.* An examination of municipal annual financial reports. *Nestor V. Wahlberg.* Mun. Finance. May, 1941.

Safety. Condemnation of dangerous buildings. *George F. Emery.* Ill. Mun. Rev. May, 1941.

Urbanization. Forces of urban centralization and decentralization. *Homer Hoyt.* A theory of location for cities. *Edward Ullman.* Am. Jour. of Sociol. May, 1941.

Zoning. Is zoning on its way out? *John A. Hobson.* New Jersey Municipalities. Apr., 1941.

POLITICAL THEORY AND MISCELLANEOUS

Books and Pamphlets

Eldridge, Seba. New social horizons; design for a personality-centered culture. Pp. 453. N. Y.: Appleton-Century. 1941.

Ellison, J. Roy. The answer to unemployment. Pp. 188. Portland (Ore.): Studio Pub. Co. 1941.

Feiler, Arthur. Conscription of capital. Pp. 23. N. Y.: Peace Research Project, Grad. Faculty of Pol. and Soc. Sci. 1941.

Fernsworth, Lawrence, ed. Dictators and democrats. Pp. 375. N. Y.: McBride. 1941.

Foster, Michael B. Masters of political thought: Vol. 1, Plato to Machiavelli. Pp. 311. Boston: Houghton. 1941.

Foster, William Z. Socialism, the road to peace, prosperity, and freedom. Pp. 46. N. Y.: Workers Lib. Pubs. 1941.

Hopkins, Levi T. Interaction; the democratic process. Pp. 490. Boston: Heath. 1941.

Kercher, Leonard C., and *Others*. Consumers' coöperatives in the north central states. Pp. 447. Minneapolis: Univ. of Minn. Press. 1941.

Kress, Andrew John, ed. Introduction to the coöperative movement. Pp. 382. N. Y.: Harper. 1941.

Laski, Harold J. Liberty in the modern state. Pp. 212. N. Y.: Penguin Books. 1941.

Lasswell, Harold Wright. Democracy through public opinion. Pp. 176. Menasha (Wis.): George Banta Pub. Co. 1941.

Packel, Israel. The law of the organization and operation of coöperatives. Pp. 324. Albany (N. Y.): Bender. 1940.

Riegel, Robert E., ed. An introduction to the social sciences. Pp. 1109. N. Y.: Appleton-Century. 1941.

Riley, Woodbridge. American thought from puritanism to pragmatism and beyond. 2nd ed. Pp. 438. N. Y.: Peter Smith. 1941.

Rittersbusch, Paul. Demokratie und Diktatur. Pp. 75. Berlin: Deutscher Rechtsverlag. 1939.

Schwarz, Sanford. Research in international economics by federal agencies. Pp. 396. N.Y.: Columbia Univ. Press. 1941.

Strong, Donald S. Organized anti-semitism in America. Pp. 191. Wash.: Am. Council on Pub. Affairs. 1941.

Toledano, A. D. Dictature et démocratie. Pp. 32. Paris: A. Michel. 1940.

Tremblay, Jean Jacques. Patriotisme et nationalisme. Pp. 233. Ottawa (Canada): Editions de l'Université. 1940.

Williams, Francis. Democracy's battle. Pp. 324. N.Y.: Viking. 1941.

Wirth, Louis, ed. Introduction to social science; a survey of social problems. Vol. 1. N. Y.: Macmillan. 1941.

Zülch, Georg. Die staatsrechtliche Stellung der evangelischen Landeskirche A. B. in Rumänien. Pp. 79. Kassel: Aktienges f. Druck u. Verl. 1939.

Articles

Agrarianism. Agrarianism; an autopsy. *Thomas J. Pressly.* Sewanee Rev. Apr.–June, 1941.

Anarchism. Philosophical anarchism, 1880–1910. *V. S. Yarros.* Jour. of Soc. Philos. Apr., 1941.

Calhoun. Calhoun's democracy. *Charles M. Wiltse.* Jour. of Politics. May, 1941.

Corporatism. El corporatismo. *Carlos M. Raggi.* Rev. Bimestre Cubana. Mar.–Apr., 1941.

Constitutionalism. Constitutional history and the present crisis of constitutionalism. *C. H. McIlwain.* Canadian Jour. of Econ. and Pol. Sci. May, 1941.

Democracy. Democracy. *L. B. Namier.* Leadership and democracy. *Hamilton Fyfe.* Nine. Cent. Mar., May, 1941.

———. Democratic possibilities in a totalitarian world. *H. McD. Clokie.* Canadian Jour. of Econ. and Pol. Sci. May, 1941.

———. The malady of wishful thinking. *William Henry Chamberlin.* Harper's. May, 1941.

———. The defense of democracy. *J. Donald Kingsley.* A Brahmin's version of democracy. *Lincoln R. Gibbs.* Antioch Rev. Spring, 1941.

———. The genesis of democracy. *Carl Sumner Knopf.* World Affairs Interpreter. Spring, 1941.

———. Science, ethics, and democracy. *Horace S. Fries.* Jour. of Soc. Philos. July, 1941.

Education. The professor as radical. *Paul Bixler.* The counter-reformation in American education. *Sidney Hook.* Antioch Rev. Spring, 1941.

———. Plato, Buddha, and President Hutchins. *James Marshall.* Harper's. June, 1941.

Jewry. The Jewish problem in America. *Albert Jay Nock.* Atlan. Mo. June, 1941.

Leadership. Leadership; institutional and personal. *Sigmund Neumann.* Jour. of Politics. May, 1941.

———. The prestige value of different types of leadership. *Ross Stagner.* Sociology and Soc. Research. May–June, 1941.

Liberalism. An up-to-date policy for liberals. *W. Horsfall Carter.* Contemp. Rev. Apr., 1941.

National Socialism. Nietzsche and national socialism. *Frederick Copleston.* Dublin Rev. Apr., 1941.

———. Werner Sombart's philosophy of national socialism. *Paul K. Crosser.* Jour. of Soc. Philos. Apr., 1941.

Nihilism. Russian and German nihilism. *Hermann Rauschning.* Dublin Rev. Apr., 1941.

Pacifism. Christian pacifism. *Reginald J. Dingle.* Nine. Cent. Apr., 1941.

Political Philosophy. *Realpolitik;* Fichte, Hegel, and Treitschke. *Peter Viereck.* Political behavior as a struggle for power. *Joseph S. Roucek.* Jour. of Soc. Philos. July, 1941.

Regionalism. Regionalism. *Charles C. Walcutt.* Sewanee Rev. Apr.–June, 1941.

Romanticism. The meaning of romanticism for the historian of ideas. *Arthur O. Lovejoy.* The economic philosophy of romanticism. *Goetz A. Briefs.* German romanticism as an ideology of cultural crisis. *Eugene N. Anderson.* Romantic historiography as a political force in France. *Jacques Barzun.* Romanticism and the religious revival in England. *Hoxies N. Fairchild.* Jour. of Hist. of Ideas. June, 1941.

Social Philosophy. Ideen, Prinzipien, und Belange. *Leopold von Wiese.* Archiv. f. Rechts- und Sozialphilosophie. Oct., 1940.

———. Person and society. *D. T. Wesseling.* Dublin Rev. Apr., 1941.

———. Philosophy and social change. *George R. Geiger.* Antioch Rev. Spring, 1941.

———. The subjective nature of ultimate moral authority. *Gardner Williams.* The limits of sociological positivism. *Howard Becker.* Jour. of Soc. Philos. Apr., July, 1941.

Social Science. The social sciences in the post-war world. *A. R. M. Lower.* Canadian Hist. Rev. Mar., 1941.

———. Classification of social science phenomena. *Ernest S. Griffith.* Jour. of Soc. Philos. Apr., 1941.

South. Faulkner and the south. *Warren Beck.* Antioch Rev. Spring, 1941.

Tolerance. The limits of tolerance. *Earl E. Muntz.* So. Atlan. Quar. Apr., 1941.

Totalitarianism. The age of tyrannies. *Elie Halévy.* Economica. Feb., 1941.

Wilson. The ghost of Woodrow Wilson. *Gerald W. Johnson.* Harper's. June, 1941.

GOVERNMENT PUBLICATIONS

MILES O. PRICE
Law Library, Columbia University

AMERICAN

UNITED STATES

Agriculture Department

Library. References on the Great Lakes-St. Lawrence waterway project, by A C. Clew and A. C. Churchill. Washington, 1940. 189 p. (mim.) Bibliographical contributions no. 30, ed. 2.

Civil Service Commission

Federal employment under the merit system. Washington: Govt. Ptg. Off., 1940. 112 p.

Commerce Department

Census bureau. State proposals voted upon, 1940. Washington, 1941. 22 p. (mim.) (State and local government special study no. 11.)

Congress

Interstate migration of destitute citizens, Select committee to investigate. Report. Interstate migration, report. . . . Washington: Govt. Ptg. Off., 1941. 741 p. $1.00.
Judiciary committee. Delays in national defense preparations, hearings, 77th Congress, 1st session. . . . Washington: Govt. Ptg. Off., 1941. 388 p. 30¢.
——— To authorize wire-tapping, hearings before subcommittee no. 1, 77th Congress, 1st session, on H.R. 2266 and H.R. 3099. . . . Washington: Govt. Ptg. Off., 1941. 257 p. 25¢.
Senate. Process of constitutional amendment, by Denys P. Myers. Washington: Govt. Ptg. Off., 1941. 40 p.
——— Proposed amendments to Constitution of United States, introduced in Congress, Dec. 6, 1926–Jan. 3, 1941; compiled under direction of Edwin A. Halsey. Washington: Govt. Ptg. Off., 1941. 88 p. 10¢.
——— *Education and labor committee.* Violations of free speech and rights of labor, hearings. . . . (Parts 67–71 have been issued. The report number 4, on "Little steel" strike, is the concluding part of the committee's report on labor policies of employers' associations. Washington: Govt. Ptg. Off., 1941. 340 p. 35¢.)
Education and labor committee. Strikes in defense industries. Washington: Govt. Ptg. Off., 1941. 299 p. (Report made by legislative reference division, Library of Congress, for the Committee.)
Interstate commerce committee. Investigation of alleged wire-tapping, hearings . . . 77th Congress, 1st session, pursuant to S. Res. 224, 76th Cong. . . . Washington: Govt. Ptg. Off., 1941. Pt. 3, 991–1061 p. 15¢.

Constitution Sesquicentennial Commission

History of formation of the Union under the Constitution, with liberty documents and reports of Commission. . . . Washington: Govt. Ptg. Off., 1941. 885 p. $2.50.

Justice Department

Attorney general's committee on administrative procedure. Administrative procedure in government agencies, monographs embodying results of investigations made by

staff of committee relative to administrative practices and procedures of several agencies of the government. 1941. 14 parts. (These were issued earlier in an unrevised form, as mimeographed pamphlets, and have been so listed. This revised series is issued both as S. Doc. 10, 77th Cong., 1st session, and as numbered monographs without the congressional document notation.)

Labor Department

Bureau of labor statistics. Federal personnel by types of work performed. Washington: Govt. Ptg. Off., 1941. 15 p. (Reprinted from *Monthly Labor Review*, June, 1941.)

National Resources Commission

Urbanism committee. Supplementary report: v. 2. Urban planning and land policies. Washington: Govt. Ptg. Off., 1939 (released 1941). 366 p.

Navy Department

Acts and resolutions relating chiefly to Navy, Navy department, and marine corps, passed at 2d and 3d sessions, 76th Congress, 1939–40, together with the President's government reorganization plans nos. 1–5. Washington: Govt. Ptg. Off., 1941. 581 p.

——— *Naval war college.* International law situations, 1939. P. S. Wild, Jr. Washington: Govt. Ptg. Off., 1941. 162 p.

Office of Government Reports

U. S. information service. Digest of the purposes of federal agencies. Rev. March, 1941. Washington: Govt. Ptg. Off., 1941. 50 p. 5¢.

President

Budget bureau. Directory of federal statistical agencies, list of professional, administrative, and supervisory personnel of federal statistical agencies in Washington, Jan. 1, 1941 . . . 5th edition. Washington, 1941. 176 p. (processed).

National resources planning board. Bibliography of reports by state and regional planning organizations. Washington, 1941. 28 p. (processed).

——— Federal aids to local planning. Washington: Govt. Ptg. Off., 1941. 151 p. 30¢.

Select committee on civil service improvement. The scholarship of junior professional appointees in the government service, by Lester B. Sims. Washington, 1940. 228 p.

State Department

Digest of international law, by Green H. Hackworth. Washington: Govt. Ptg. Off., 1940–41. (The first two volumes of this most important work, comprising chapters I–VIII, have appeared. $2.00 per volume.)

Territorial papers of United States: v. 9, Territory of Orleans, 1803–12; comp. and ed. by Clarence E. Carter. Washington: Govt. Ptg. Off., 1940. 1092 p. $2.50.

Work Projects Administration

Wisconsin historical records survey. An index to governors' messages of Wisconsin. Madison, 908 W. Johnson St., 1941. 186 p. (mim.) (Covers 1848–1935.)

——— Development of town boundaries in Wisconsin: no. 36, Manitowoc county. Madison, Wis., 908 W. Johnson St., 1941. 42 p. (mim.)

STATE AND TERRITORIAL

CALIFORNIA

Los Angeles. Municipal reference library. Defense planning for local governments: a bibliography. Los Angeles, Calif., 300 City Hall, 1941. 3 p. (mim.)

State personnel board. Laws and rules governing the California state civil service . . . rev. ed. Sacramento, 1940. 90 p.

University of California, Berkeley. Bureau of public administration. Civil relief for draftees, prepared by Russell Barthell and Robert Ward. Berkeley, 1941. 17 p. (mim.) (1941 legislative problems, no. 2.) 30¢.

——— Legislative reorganization, by D. C. Culver. Berkeley, 1941. 73 p. (mim.) (1941 legislative problems no. 4.) 45¢.

——— Direct primary elections, by Arthur Harris and Carl Uhr. Berkeley, 1941. 35 p. (mim.) (1941 legislative problems no. 3.) 35¢.

COLORADO

Legislative reference office. Administrative code of 1941: an act relating to the reorganization of state government as enacted by the 33d general assembly. Denver, 1941. 49 p. (Publication 41-1).

University of Colorado, Boulder. Documents division. A classification for state, county, and municipal documents, by Raynard A. Swank. Boulder, 1941. 8 p. (mim.)

CONNECTICUT

Commission on inter-governmental coöperation. Report . . . Hartford, 1941. 83 p.

ILLINOIS

Civil service commission. Rules of the Illinois state civil service commission and amendments thereto effective March 10, 1941. Springfield, 1941. 25 p. (mim.)

Legislative council. Definite sentence laws, parole, re-parole. Springfield, 1941. 31 p. (mim.) (Publication 38).

——— Revision of Illinois aviation laws. Springfield, 1941. 36 p. (mim.) (Research report on proposal 129).

Tax commission. Special assessment financing of local improvements, 1925–37. . . . Springfield, 1940. 266 p. (Survey of local finance in Illinois, v. 6).

KANSAS

Legislative council. Research dept. State registration and licensing of architects. Survey of general types and salient features of laws of other states; and fundamentals of registration procedures. Topeka, 1941. 3 p. (Publication 107).

LOUISIANA

State university and agricultural and mechanical college, University. Bureau of business research. The income tax under federal and Louisiana laws, by R. A. Saliers. University, 1941. 14 p.

MARYLAND

Montgomery county, Md., a summary of recommendations in survey made at request of board of county commissioners. Washington, D. C., Brookings Institution, 1941. 85 p. (Pam. 27.) 25¢.

MASSACHUSETTS

State planning board. Report on survey of governmental units, W.P.A. project no. 18,151. Boston, 1940. 41 [71] p.

Weymouth historical society. Weymouth town government, its beginning and development, by C. W. Fearing. South Weymouth, 1941. 36 p. (Pub. no. 7.) 50¢.

MICHIGAN

University of Michigan, Ann Arbor. Michigan retail sales and use taxes, by Robert S. Ford . . . and E. Fenton Shepard. Ann Arbor, Univ. of Mich. Press, 1941. 154 p. (Michigan governmental studies, No. 5.)

——— *Bureau of government.* Federal expenditures in Michigan, by C. R. Tharp. Ann Arbor, 1941. 36 p. tables. (Mich. pamphlet no. 13.) 10¢.

Units of government in Michigan, by F. M. Landers. Ann Arbor, 1941. 43 p. tables, charts, maps. (Mich. pamphlet no. 11.) 10¢.

MONTANA

Agricultural experiment station, Bozeman. What is happening to Montana county expenditures, by R. R. Renne. Bozeman, 1941. 22 p. (mim.)

——— Local public finance situation in Daniels county . . . (Preliminary report) by Stanley W. Voelker. Bozeman, 1941. 52 p. (mim.)

NEBRASKA

Legislative council. Research dept. Registration of births in Nebraska. Lincoln, 1940. 7 p. (mim.)

NEVADA

Secretary of state. Political history of Nevada, by Malcolm McEachin. Carson City, 1940. 63 p.

NEW HAMPSHIRE

University of New Hampshire, Durham. Bureau of governmental research. New Hampshire municipal news, 1. Durham, 1941. (First issue of a periodical devoted to the interests of New Hampshire municipalities.)

NEW YORK

Governor. Public papers of Herbert H. Lehman, 49th governor . . . 3d term, 1937. Albany, 1940. 835 p.

Legislature. The clerk's manual of rules, forms, and laws for the regulation of business in the Senate and Assembly . . . Ansley B. Borkowski, clerk of the Assembly. Albany, 1941. 741 p.

Temporary salary standardization board. Fourth report: submitting a revised schedule of compensation covered by ch. 859, Laws of 1937, as amended, showing changes in allocations recommended. Albany, 1941. 188 p. (Leg. doc., 1941, no. 75.)

New York (City) municipal reference library. Firemen: selected bibliography. . . New York, 1941. 5 p. (mim.) 20c.

NORTH DAKOTA

Tax commissioner. Financial and statistical report of all county governments in North Dakota . . . (W.P.A., North Dakota). Bismarck, 1940. 76 p. (mim.) (Vol. II.)

OREGON

University of Oregon, Eugene. Bureau of municipal research and service. Curfew ordinances in 29 Oregon cities. Eugene, 1941. 5 p. (mim.) 25¢. (Bul. 41.)
——— The regulation of taxicab parking in 22 cities. Eugene, 1941. 6 p. (mim.) (Information bulletin no. 49.) 25¢.
——— The Oregon speed law, 1941. What it means. How it works. Eugene, 1941. [n.p.] (mim.) (Legal bulletin no. 4.)

TEXAS

University of Texas, Austin. Bureau of municipal research. Units of local government in Texas. Austin, Univ. of Texas Press, 1941. 221 p. (Municipal studies no. 15.) $2.00.

BRAZIL

Ministério das relações exteriores. A zona de segurança contenantal. (Declaração do Panamá.) Rio de Janeiro, Imprensa Nacional, 1940. 23 p.
——— Fronteiros limites (a politica do Brasil). Oswaldo Aranha. Rio de Janeiro, Imprensa Nacional, 1940. 21 p.

CANADA

Department of exterior affairs. Agreement between Canada and the United States relating to the Great Lakes-St. Lawrence basin development. Ottawa, King's Printer, 1941. 10 p. (Correspondence and documents relating to the above. 23 p.)
Privy council. Proceedings and orders in council passed under the authority of the war measures act. Ottawa, King's Printer, 1941. 191 p. (v. 3.)
Winnipeg (Man.) Municipal council. By-laws of the city dealt with by the council during the year 1940. Winnipeg, 1941. 88 p.

GERMANY

Library of information (N. Y.). The French yellow books. A self-indictment, by Prof. Dr. Friedrich Grimm. N. Y., 1941. 62 p.
——— The war in maps, 1939–40, by Giselher Wirsig and others. N. Y., 1941. 70 p. tables, maps.

GREAT BRITAIN

The library of information, 50 Rockefeller Plaza, New York, releases a great deal of material on the war, for the most part in the form of speeches by Winston Churchill, Lord Halifax, and others. These are usually also issued as command papers in the parliamentary series.

GREECE

Ministry of foreign affairs. Italy's aggression against Greece. Athens, 1940. 140 p.

GUATEMALA

Secretaria de relaciones exteriores. Libro blanco. Controversia entre Guatemala y la Gran Bretaña relativa a la convencion de 1859, sobre asuntos territoriales. Cuestion de Belice. Guatemala, 1938–. Up to April, 1941, nine parts were issued. 496 p. Elaborately documented.

INDIA

Legislative department. Legislation and orders relating to the war. Delhi, Manager of Publications, 1940. 454 p. Rs. 3 As. 12.

ITALY

Library of information, N. Y. Development of Italian East Africa. . . . New York, 1940. 101 p. (mim.)

——— Italian foreign policy since 1870: an outline study. New York, 1940. 61 p. (mim.)

——— The Mediterranean: highway or prison; an outline study, with a chapter on Malta. N. Y., 1940. 72 p. (mim.)

MEXICO

Department of state for foreign affairs. Pan-American day addresses in Mexico, April 14, 1941. Mexico, D.F., 1941. 42 p. (National and international problems series, no. 5.)

Bureau of international news service. (On May 31, 1941, appeared volume 1, number 1, of "Mexico News," a monthly bulletin of the Bureau of International News Service. It will be mailed free to those requesting it.)

National university of Mexico, Mexico, D.F. The Bucareli agreements and international law . . . by Antonio Gomex Robledo. Tr. by Salomón de la Selva. Mexico, D.F., 1940. 228 p.

POLAND

Ministry of information. German fifth column in Poland. London, Hutchinson 1940. 157 p. 2s. 6d.

Polish information center. Documents relating to the administration of occupied, countries in eastern Europe. New York, 1941. (5 parts, at 25¢ each.)

PORTUGAL

Secretariat of national propaganda. Salazar, prime minister of Portugal, says. . . . Lisbon, 1941. 85 p.

PAN-AMERICAN UNION

Convention on nature protection and wild-life preservation in the western hemisphere. Washington, Pan-American Union, 1940. 9 p. (mim.)

——— Inter-American coffee agreement. Washington, Pan-American Union. 13 p. (mim.)

Organization and activities of the Inter-American financial and economic advisory committee. Washington, Pan-American Union, May, 1941. v.p. (There is also a separate publication of the same pamphlet in Spanish. Both mimeographed.)

Final act of the Inter-American maritime conference. Washington, Pan-American Union, 1940. 16 p. (mim. Congress and Conference series no. 33.)

Actas de las sesiones del Comite consultivo económico financiero interamericano. Washington, Pan-American Union [1939–41?]. 5 v.

Juridical division. Status of the Pan-American treaties and conventions. (Rev. to January 1, 1941.) Washington, Pan-American Union, 1941. (6 page chart.)

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